



THE INSIDER'S GUIDE TO

AIRCRAFT TRANSACTIONS



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ABOUT THE AUTHOR

Denise Wilson, CAM, is a respected aviator, entrepreneur, and trusted aviation advisor with more than 25 years of experience in business aviation. A Gold-level Certified Aviation Manager (CAM), author, and accomplished pilot with over 9,000 flight hours, Denise brings rare end-to-end expertise spanning flight operations, aircraft ownership, and high-value jet transactions.

She is the President and Founder of The Jet Agent, a Scottsdale-based aircraft acquisitions and sales brokerage recognized for its transparent, data-driven approach. In under two years, the firm earned a place among JETNET's Top 50 U.S. brokerage firms out of more than 800 nationwide.

Previously, Denise founded and led Desert Jet, growing it into a \$20 million, debt-free aviation enterprise encompassing charter, management, maintenance, and an award-winning FBO. The company appeared on the Inc. 500 list of fastest-growing private companies for five consecutive years before her successful exit in 2020. She later became a top-performing sales director at a major brokerage, leading industry-defining transactions in the Citation M2, CJ3, and CJ3+ markets.

In 2023, Denise authored the No. 1 bestseller *The Insider's Guide to Buying and Selling Jets*, sharing insider strategies to help buyers and sellers navigate complex aircraft transactions with confidence. A frequent media contributor and industry speaker, Denise is also a lifelong musician and founder of the Scottsdale Symphonic Orchestra, bringing precision, discipline, and passion to everything she does.

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BY DENISE WILSON, CAM

I. INTRODUCTION

The sale or acquisition of a business aircraft can be fraught with perils due to the special nature of the transactions. Most flight departments and operators only occasionally handle the sale or acquisition of an asset for their companies, leading to a deep learning curve when the occasion arises to dispose of an asset, transition into a new one, or wind down operations.

The aircraft brokerage industry itself is unregulated, with no licensing or certifications required of those who are representing either buyers or sellers. With no barriers to entry, anyone can call themselves a broker and find themselves in over their head in a transaction. While the aircraft sales industry attracts many new people with little knowledge of aircraft operations, maintenance, or management, it is balanced by the numerous professional aircraft sales and acquisition representatives who have been in the industry for decades with hundreds of successful transactions completed.

The best course to ensure that your company has a positive experience is to surround yourself with properly vetted experts that have experienced every possible issue that can pop up in a transaction and know how to alleviate or eliminate them entirely. It goes without saying that ethics and integrity are of vital importance when assembling your team in anticipation of an aircraft transaction.

II. THE TRANSACTION TEAM - BRINGING IN THE EXPERTS

Aircraft Acquisition Representative

When considering the acquisition of an aircraft, the Aircraft Acquisition Representative plays a central role. The Aircraft Acquisition Representative acts as the project manager for the entire acquisition, leading the team as each milestone in the process is reached. Aircraft Acquisition Representatives go by the title of buyer representative, aircraft broker, or aircraft acquisition consultant.

The Aircraft Acquisition Representative is both a buyer's broker and expert on the operation and maintenance of the aircraft model being considered. In some cases, the Aircraft Acquisition Representative may focus primarily on the search for the aircraft, and bring in technical experts to assist once the aircraft model has been chosen.

The Aircraft Acquisition Representative appointed should have expertise and verifiable experience in representing clients in the acquisition of the model of aircraft under consideration. The tasks completed by the Aircraft Acquisition Representative include, but are not limited to, the following;

- Conducting a comprehensive mission and financial analysis to understand the client's requirements.
- Recommending aircraft models that align with the mission, operating, and acquisition budget.
- Advising and assisting clients in selecting the aircraft model that best fits the planned operation.
- Facilitating the determination of the applicability of bonus depreciation benefits.
- Conducting a thorough search for on and off-market aircraft options worldwide.
- Performing initial due diligence on the overall market for the selected aircraft model and presenting the top three available aircraft choices to the client.
- Conducting valuations on the top three aircraft choices.
- Managing the offer and negotiation process and advising throughout.
- Aiding in the selection process for a management company or aircraft manager, if applicable.
- Advising on the selection of the most suitable aircraft base location, considering aircraft performance limitations, airport capabilities and convenience to users of the aircraft.
- Introduction to finance professionals, if needed.
- Facilitating the opening of escrow.
- Preparing the letter of intent and aircraft purchase agreement in coordination with legal counsel.
- Recommending a pre-purchase inspection facility and workscope based on the results of the initial due diligence completed.
- Supervising the mechanical pre-purchase inspection.
- Exercising negotiation skills to keep costs contained at every opportunity.
- Reviewing the pre-purchase inspection results and advising on the condition of the aircraft in preparation for potential technical acceptance.
- Ensuring a smooth delivery of the aircraft, considering tax implications of the state chosen for the delivery.
- Obtaining quotes and scheduling recommended facilities for post-close upgrades, if desired.
- Managing any post-closing upgrades or refurbishments.
- Coordinating with the Aircraft Manager in preparing the aircraft for operations immediately post-close, to include establishing the aircraft's database, Satcom, and WIFI subscriptions.
- Facilitating the transfer of any engine program to the new owner.
- Advising on airframe parts and labor program options.
- Arranging for a maintenance tracking program subscription.
- Providing recommendations on suggested maintenance facilities to the client and client representatives.
- Educating the new owner's representatives on the process for making payments on airframe and engine programs.

- Introducing the owner's representatives to key contacts at the manufacturer for ongoing support.

At times, the search and due diligence on a potential Aircraft Manager has not been completed before putting together the acquisition team. In this case, the Aircraft Acquisition Representative normally handles the tasks that need to be completed until such time that an Aircraft Manager has been appointed. In this case, the following Aircraft Manager tasks can be assumed by the Aircraft Acquisition Representative if timely action is required;

- Assisting with crew staffing.
- Developing a training plan for the crew and arranging training slots.
- Coordinating with the Aircraft Insurance Broker to obtain insurance options.
- Scheduling the mechanical pre-purchase inspection slot with a inspection facility.
- Overseeing the visual inspection and operational check flight/test flight.

Aircraft Sales Representative

When considering the sale of an aircraft, the Aircraft Sales Representative plays a central role. Similar to the Aircraft Acquisition Representative, the Aircraft Sales Representative acts as the project manager for the sale of the aircraft, keeping all parties in active communication and leading each step of the sales process. Titles for professionals who represent sellers in the sale of an aircraft include aircraft sales broker, sales director, or sales agent.

There are significantly more representatives who specialize in sales than those that specialize in acquisitions, making the selection process for an Aircraft Sales Representative more difficult and time-consuming. There is no regulatory body that governs the sales of aircraft, and there are no licensing or other requirements in place to become an Aircraft Sales Representative. Completing due diligence when choosing an Aircraft Sales Representative is imperative. The questions below can help ensure the Aircraft Sales Representative you are considering has the depth of experience and market expertise needed to hit a home run:

- Has the Aircraft Sales Representative under consideration successfully sold this specific model of aircraft before?
- Does the Aircraft Sales Representative have a dedicated team that closely follows the sales trends for this type of aircraft?
- Can the Aircraft Sales Representative share the details of the three most recent sales that resemble the aircraft you intend to sell?
- What approach would the Aircraft Sales Representative take to ensure a fast and lucrative sale of your aircraft?
- What do their references say about working with this Aircraft Sales Representative?

Aircraft Sales Representatives handle all marketing of the aircraft to bring the seller offers and, ultimately, a buyer. The Aircraft Sales Representative should be the expert in selling the model of aircraft you are looking to sell and should be able to provide you with an estimated sales price based on their experience of recent transactions of similar aircraft and should be able to estimate the number of days anticipated for the aircraft to sell.

Legal Counsel

One of the key members of the acquisition team is the legal counsel. Legal counsel with specific experience in aircraft transactions will provide valuable advice on ownership structures (such as trusts, LLCs, corporations, or individual title) and set up any necessary leases to ensure compliance with FAA Part 91 regulations. Working closely with the tax advisor, your legal counsel can protect your interests in the drafting or reviewing of the Aircraft Purchase Agreement.

Be wary of using legal counsel who are generalists or don't specialize in aircraft transactions. Many an aircraft deal has been unnecessarily complicated and delayed due to legal counsel with specializations in fields such as real estate that utilized contractual language that conflicted with the standard terminology used by aviation legal professionals.

Tax Advisor

An aviation tax advisor specializes in navigating the complex world of aviation taxes. They provide insights on state sales and use tax applicable to the purchase and operation of business jets. While legally avoiding state sales tax by taking delivery in certain states is possible, use tax usually comes into play in the same amount. However, some states have exemptions for interstate commerce or commercial operations, and others have "fly-away" exemptions. A knowledgeable aviation tax advisor can save hundreds of thousands of dollars in taxes by recommending an appropriate delivery location, overseeing the delivery process, and setting up the correct ownership and operating structure.

Finance Advisor

For buyers seeking aircraft financing, there are a few options to explore. The buyer may have a CFO or other financial resource who will recommend the best course of action, whether paying cash or financing the acquisition. If financing is desired, typically the initial call is made to the main contact at the bank where the company has its primary banking relationship to determine options and terms.

Aviation finance brokers are another good source for financing. They typically have relationships with several funding institutions that specialize in aircraft asset financing. They will prepare your financial profile package and compare multiple aircraft financiers to find the best deal tailored to your needs. A finance professional with extensive industry contacts and experience will ensure you secure the best financing and terms possible. Their expertise is invaluable in navigating the financing process as some also have creative options available through non-traditional financing methods.

Regardless of the financing assistance you seek, starting the process at least a month before the anticipated closing date is crucial. Buyers paying cash have an advantage over those needing financing, especially if the financing institution hasn't approved the loan at the time of making an

offer. Start the search process early and give yourself enough time to secure the funding you need.

Escrow Agent

The escrow agent's role is to act as a neutral third party to an aircraft transaction to accomplish title and lien searches, collect all documents and funds required during the course of the transaction, make FAA filings related to the transfer of ownership and disburse funds at closing of the transaction.

Most aircraft escrow agents are based in Oklahoma City, Oklahoma, due to the proximity of the FAA Registry office.

Escrow agents vary greatly in the level of service they provide to parties involved in a transaction. Some escrow agents are associated with law firms and can provide counsel on dry lease, co-ownership/fractional structures and interchange agreements, as well as assist with aircraft import and export. Other escrow agents may focus solely on the closing process or offer ownership trust options. In any case, it is prudent to do your own due diligence when choosing an escrow agent. An escrow company that deals primarily in smaller aircraft transactions will likely not have the capital nor the depth of experience required to manage a deal involving a \$50 million aircraft transaction.

Unlike the real estate industry, where escrow and title agencies are licensed and regulated by state commissions, there is no licensing or regulation of aircraft escrow companies. A benefit to using a law firm that also provides escrow services is that law firms have a state bar association providing ethical oversight, which could result in loss of license to practice law. Additionally, using a law firm that also offers escrow services can be beneficial in the case of a dispute between buyer and seller as relates to the return of deposit funds.

The Aircraft Acquisition or Sales Representative will be able to advise on which escrow agent would be best suited for your transaction. Further vetting can be accomplished by requesting insurance coverage details directly from the escrow agent under consideration.

Insurance Broker

When choosing an insurance broker, taking the time to interview several and check out references will pay off in the end. A top-notch insurance broker will go the extra mile, taking the time to understand your operation's needs, experience, and safety philosophy. They won't merely send off your information to the underwriter via email; they'll have a face-to-face discussion to paint a vivid picture of your department's expertise and risk profile. These exceptional insurance brokers have built years of trust with underwriters, enabling them to secure deals that others simply can't.

Aircraft Manager

One of the more important aspects of aircraft ownership that requires serious consideration is choosing an aircraft manager. The Aircraft Manager is responsible for ensuring the safe operation and maintenance of the aircraft. The vetting of flight crew and maintenance facilities/personnel is completed by the Aircraft Manager, both critical responsibilities required to ensure safety of operations.

Management options vary from utilizing a flight department management structure or using a professional, third-party aircraft management company. For smaller flight departments, an individual aircraft manager may prove to be sufficient. Larger, established flight departments will likely have an Aviation Director overseeing all operational and maintenance functions for the new aircraft or have an existing relationship with a management company.

Those that currently own or operate aircraft likely have an aviation manager, maintenance manager or management company that can provide valuable assistance and advice throughout this process.

For those acquiring their first aircraft, one of the most overlooked aspects of establishing operations for a newly acquired jet is the proper vetting of the prospective aircraft manager or management company. Unfortunately, the highest risk of loss of aircraft value, other than damage, can be traced to Aircraft Managers that don't understand how to properly maintain and track the records on an aircraft in accordance with industry standards. Lost or misplaced records can result in a significant reduction in value of an aircraft and can trigger unexpected additional costs for a seller during a pre-purchase inspection. It is not uncommon for sellers to discover the quality of the management of their asset too late - during the pre-purchase inspection when selling their aircraft.

III. CHOOSING THE AIRCRAFT

One of the biggest decisions during the acquisition process is choosing the aircraft that meets the buyer's desired profile. Thorough due diligence calls for an analysis of the mission intended, to include the airports and routes most likely to be utilized, the anticipated passenger load, budget and of course, buyer preferences. The Aircraft Acquisition Representative, in coordination with the Aircraft Manager, if already engaged, is a great resource to present data on the various aircraft options that best meet the stated mission and budget.

Mission Analysis

The mission analysis includes a review of the airports most likely to be used by the primary user/(s) of the aircraft, the airports closest and most suitable nearest the planned destinations, anticipated passenger loads, cost considerations, and primary user preferences. The analysis process takes into consideration where the primary user may be willing to compromise; for example, if a fuel stop may be required for 5% of the planned flights annually, the buyer may be willing to proceed with an aircraft that fits every other mission requirement to keep operating and capital costs within a predetermined budget.

Operating, Ownership and Acquisition Cost Analysis

Once a general idea of the type of aircraft has been determined through the mission analysis, completing an operating cost analysis for the models under consideration is prudent. When doing an evaluation of the operating costs for different aircraft models, using the cost per nautical mile comparison will help illustrate the efficiency of aircraft under consideration.

New or Preowned?

Another important choice to be made at this stage is whether to pursue a new or preowned aircraft. Each has its benefits and downsides. A new aircraft could result in a year or longer wait for delivery but also offer attractive warranty coverage. A preowned aircraft could be available immediately but have higher operating costs. The Aircraft Acquisition Representative can help guide the buyer through the review of all potential options.

Capital and Operating Budget

Once a choice has been made on the aircraft model, a projection of costs related to the aircraft acquisition, annual operating costs and overall ownership costs can be calculated. While some costs may be estimated (such as the actual projection of maintenance costs based on the serial number and age of aircraft chosen and the final negotiated sales price), the Aircraft Acquisition Representative can present a fairly accurate projection of costs. This projection can be used as the basis for creating a working budget after a specific aircraft has been selected.

IV. EVALUATING THE MARKET

When is the Right Time to Buy?

For first time buyers, the decision to buy a jet can be daunting due to the myriad of considerations, especially since new buyers likely don't already have a trusted aviation advisor assisting with the process. For first time buyers, the right time to buy is after they have engaged an Aircraft Acquisition Representative that has been properly vetted and can advise on market trends.

Experienced jet owners will likely start to consider a move to their next jet when there is a significant trigger event. Some examples of trigger events include;

- An unexpected profitable year in business resulting in unforeseen tax consequences that leads a tax advisor to recommend a capital purchase of depreciable equipment before the end of the year.
- Expansion of the business that adds new locations or locations outside the range of the existing aircraft.
- Existing aircraft is aging and is advised by the Aircraft Manager that an acquisition of a newer aircraft would be prudent to consider.

- Flying on an out-of-fleet aircraft (such as a charter, fractional provider, or a friend's aircraft) and experiencing amenities or capabilities that the current aircraft does not offer.

Aircraft market data is readily available from brokers who specialize in the respective aircraft model that show trends in jet sales on a macro basis (data tracked annually over the last 20+ years) as well as a micro basis (tracked monthly showing the traditionally slowest and busiest times of year for past transactions). The Aircraft Acquisition Representative will be best equipped to advise the best timing for a potential preowned aircraft acquisition considering fleet availability and pricing. For new aircraft acquisitions, the manufacturer sales representative can project availability of the first available delivery slot and can also alert buyers to unexpected earlier delivery slots when they become available.

As a rule of thumb, when the preowned aircraft availability in a model market segment exceeds 8-10% of the fleet size, there are enough aircraft available that the buyer generally has a slight advantage in a transaction (a "buyer's market"). Conversely, when the availability of aircraft for sale within a particular model market segment dips below 6-8%, there are fewer aircraft to choose from, resulting in more buyers and fewer options (a "seller's market").

When is the Right Time to Sell?

The right time to sell depends on the seller's objectives. If the current aircraft is being replaced and the seller does not desire to own two aircraft concurrently, the right time to sell the aircraft may be before delivery of the replacement aircraft, irrespective of other market conditions. In the case of an aircraft owner deciding to get out of aircraft ownership altogether or take a short period of time away from aircraft ownership, the decision requires a careful consideration of market dynamics, availability of a replacement travel option, and the process required to "unwind" the existing operation.

The Search

Once an aircraft model has been chosen, the search should consist of both on-market and off-market options that fit the buyer's desired profile. This is where the selection of an Aircraft Acquisition Representative with experience in the model chosen will provide the buyer with additional options that aren't readily available to the unrepresented buyer.

V. INITIAL DUE DILIGENCE

Completing initial due diligence on aircraft under consideration is a critical step to reduce wasted time further in the pre-purchase inspection process. Validating information provided by the seller of the aircraft can also give clues to the seller's knowledge and overall awareness of the condition of the aircraft. The more in-depth knowledge of the history of the aircraft that the seller's representatives can demonstrate, the less likely there are to be surprises during the pre-purchase inspection phase of the acquisition.

Domestic Aircraft

When acquiring a US based and registered aircraft, basic due diligence should be accomplished on any aircraft under consideration early in the process.

FAA records provide historical airworthiness and registration records on all US registered aircraft, enabling a quick review to determine if Form 337s have been filed related to major alterations and damage repairs and a verification of previous ownership history.

Most jet aircraft historical maintenance records can be viewed online through the maintenance tracking subscription held by the aircraft operator. A cursory review prior to the more in-depth maintenance records review accomplished during the pre-purchase inspection can help uncover issues early in the due diligence process and potentially eliminate aircraft from consideration early, before spending further resources in the pre-purchase inspection phase.

FAA and NTSB databases can be used to identify any accidents or incidents that may have occurred on US registered aircraft under consideration. Be sure to search all previous registration numbers and not just the current registration to ensure a thorough review.

A review of historical flight records through online flight tracking data providers can provide a good cross-check of information related to airframe total time. Most sites permit a search of total flight hours flown annually, which can be matched to maintenance records to validate the accuracy of the advertised airframe total time.

The cosmetic condition of an aircraft can be largely determined in advance of a visual inspection if recent and unaltered photos and video are available for review.

Lastly, a verification can be made of warranty and engine, airframe and APU program status through a quick inquiry of the manufacturer and/or program provider.

Additional Considerations for International Aircraft

The purchase of an aircraft based and registered outside the US includes additional considerations due to steps required to import the aircraft. It's important to determine early if the aircraft will meet US airworthiness certifications standards. A Designated Airworthiness Representative (DAR) can be engaged to review all aircraft records to determine eligibility for an US certificate of airworthiness prior to closing and then issue the US certificate of airworthiness once ownership has changed hands.

VI. THE OFFER TO PURCHASE

The Letter of Intent (LOI) provides the buyer with a quick method to express a non-binding offer on an aircraft. Similar to a term sheet, the LOI includes just enough of the deal points to help both parties decide if they can reach a deal with further negotiations as they proceed to the drafting of the Aircraft Purchase Agreement. Terms normally include the price the buyer is

offering to pay on the offer, the deposit amount, escrow agent preference, basic terms related to the inspection of the aircraft, conditions to be met prior to closing and expiration date of the offer. Other terms include confidentiality provisions, requests made by the seller to retain the aircraft's registration number, and buyer requests to remove the aircraft from the market when the LOI has been accepted.

LOIs serve as the foundation of the first draft of the Aircraft Purchase Agreement (APA) and set the expectations between buyer and seller of basic deal terms. The LOI should be prepared or reviewed by legal counsel with specific experience in aircraft transactions.

VII. OPENING ESCROW

Escrow can be opened at any time during or before the LOI process for an acquisition of a preowned aircraft.

The LOI and the deposit should be presented to the escrow agent to open escrow, with a request for escrow agent terms, conditions, and fee structure.

When acquiring a newly manufactured aircraft, the manufacturer will typically handle all FAA filings for registration, and importation if applicable, as well as hold all deposits made, negating the use of a third-party escrow company.

Deposits

The deposit is a good faith gesture made while presenting the LOI to the seller of the aircraft and is held by an escrow agent. The deposit is normally fully refundable until the Aircraft Purchase Agreement has been executed. The timing and conditions of the refundability of the deposit is a negotiable item addressed in the Aircraft Purchase Agreement.

Three-Party Agreement

It is a best practice to insist on the three-party agreement between the escrow agent, buyer, and seller to prevent any uncertainty over the disposition of a buyer's deposit should the transaction not complete for any reason. Escrow agents will typically decline to return a deposit once an Aircraft Purchase Agreement has been executed unless both buyer and seller agree to the return, regardless of refundability provisions in the APA. This can potentially cause an interpleader action to be filed and unnecessary expense and delay. The three-party agreement addresses the governing law for the agreement, which should be governed by the law of Oklahoma and provide for dispute resolution consistent with the escrow company terms and conditions.

Title and Lien Search

The escrow agent can conduct title and lien searches of FAA and International Registry records on the aircraft to confirm aircraft title and the presence and scope of any liens. The title records verify the registered owner of the aircraft and identify any liens to be cleared prior to closing.

VIII. DETERMINING THE OWNERSHIP STRUCTURE

Legal counsel and the tax advisor work together to determine the best operating structure considering a variety of factors such as citizenship of the buyer, use tax implications, and intended operating regulations such as FAA Part 91, Part 135, or Part 125. Two of the more common ownership structures are ownership trusts and the use of limited liability companies.

Ownership Trusts

An owner trust is a structure where a trustee, normally a business entity, holds title in the aircraft asset on behalf of the trustor. This structure is normally used in the case where the aircraft buyer cannot meet U.S. citizenship requirements for aircraft registration, or when aircraft owners that desire heightened privacy wish to conceal their direct ownership of the asset.

Limited Liability Companies

A common structure is to hold title in the name of a limited liability company (LLC), then structure a lease agreement between the LLC and the ultimate operator of the aircraft. This structure addresses a myriad of issues ranging from the "flight department trap" to certain state use tax obligations. The tax advisor and legal counsel that specialize in aviation transactions are best suited to advise on potential ownership and lease structures.

IX. AIRCRAFT PURCHASE AGREEMENT

Unlike the LOI, the Aircraft Purchase Agreement (APA) is a mutually binding contract between buyer and seller. It further defines the terms set out in the LOI and expands the scope of the agreement between buyer and seller, defining the rights, representations, and responsibilities of each party as well as default provisions. It is the definitive "guide" for both parties as to how the transaction will advance. The APA should be prepared or reviewed by legal counsel with specific experience in aircraft transactions.

The APA defines all parties to the transaction, the aircraft, engines and related documentation and equipment. The description of the aircraft should include the aircraft make, model and serial numbers of both the airframe and all engines. Further description of the aircraft is normally accomplished by the addition of the aircraft specification sheet, as an exhibit to the APA, which includes all installed equipment on the aircraft, the airframe hours and landings, and engine hours and cycles.

The purchase price as well as the deposit and conditions related to its refundability are defined as well as the terms surrounding the condition of the aircraft at delivery. The inspection process determines whether the aircraft can be delivered in accordance with the "delivery conditions" outlined in the APA. The delivery conditions typically include requirements related to the airworthiness of the aircraft, the status of any airframe, engine or APU programs, and the condition of the aircraft's records.

Other common terms include whether there will be an operational check flight, which is normally noted colloquially in the APA as a test flight. The responsibility for payment of the costs related to the test flight as well as the timing of the test flight (normally before, but sometimes occurring after the mechanical inspection) is also defined along with defining the pre-purchase inspection workscope, technical acceptance of the aircraft, and the correction of discrepancies.

Various general legal provisions such as buyer and seller default provisions, representations, liability limitations and choice of legal jurisdiction are included in the APA.

Other APA provisions that may be included depend on their applicability, including but not limited to the following:

- International Registry
- Assignment of Warranties and Programs
- Retaining the Aircraft Registration Number
- Sharing of Escrow Fees
- Assignment of APA

Lastly, the APA will likely refer to exhibits that further define information in the APA which could include definitions, detailed aircraft specifications, the pre-purchase inspection scope, the technical acceptance certificate, the delivery and acceptance certificate, warranty bill of sale and the escrow agreement.

X. DUE DILIGENCE

Completing due diligence on an aircraft involves many moving pieces. During an acquisition of an aircraft, significant time and money can be saved by completing preliminary due diligence researching the history of the operation, ownership, and maintenance of the aircraft prior to commencing a visual inspection, operational check flight or mechanical evaluation.

Visual Inspection

When purchasing an aircraft, the visual inspection can, in many cases, provide a glimpse as to how the aircraft will fare during a mechanic pre-purchase inspection. It can also provide insight as to the level of care the aircraft owner provided in the maintenance of the aircraft and grants a sneak peek at potential pre-purchase inspection concerns.

Each aircraft model has its own areas of concern that experts know to look for when completing a visual inspection on an aircraft under consideration. Using a model expert is crucial to uncovering potential issues in a visual inspection.

Generally, a visual inspection should include looking for anything that looks out of place on the aircraft, such as dents, fluid leaks, chipping paint, mismatched paint, bubbling paint, smoking or loose rivets, corroded or rusted hardware or fasteners, skin seams that don't appear to line up, wrinkling in the skin, scratches on acrylic windshields, and other telltale signs of potential issues.

Paint bubbling can be a sign of possible corrosion, fluid leaks or just poor-quality paint surface preparation.

Undisclosed previous damage can be uncovered by finding areas with mismatched paint. Smoking rivets, especially when many of them are noted in close proximity to each other, can also provide a preview of a potential repair during the pre-purchase inspection process.

During the visual inspection, seize the opportunity to validate the specification sheet or brochure the seller provided on the aircraft. What is in the records doesn't always match what is physically installed on the aircraft (although, it should).

Inside the cabin, do a thorough operational check of seats, lighting, entertainment, galley, and lavatory systems. The cosmetic portion of the visual inspection helps us determine whether the cosmetic condition meets our client's requirements, or if the aircraft can be easily brought to an acceptable cosmetic condition.

A cursory review of the logbooks is commonly done during the visual inspection to ensure the records are consecutive, accurately reflect the current maintenance inspection status of the aircraft and have no references that point to potentially undisclosed damage repairs. A more complete and in-depth examination of the aircraft records is completed by the maintenance facility responsible for the pre-purchase inspection.

In a buyer's market, completing the visual inspection during the initial due diligence stage, before even considering an offer on the aircraft, is typical. Yet, during a seller's market, there are significant advantages to securing a plane with a Letter of Intent (LOI) first, particularly when other interested parties are involved. The LOI acts as a non-binding agreement, allowing the buyer to reject the aircraft after the visual inspection if it fails to match the seller's presented photos and videos. Yet, it also ties up the aircraft for a few days to allow more time for more thorough initial due diligence.

Before proceeding to the operational check flight (commonly referred to as a "test flight") or moving the aircraft to the pre-purchase inspection location, sellers frequently require written acceptance of the aircraft's cosmetic condition. This step ensures a smooth transition ahead.

The visual inspection allows for an insightful assessment of aircraft and records integrity and is a vital stage in the aircraft acquisition process.

Operational Check Flight

The Operational Check Flight, or Test Flight, is a crucial step in the aircraft evaluation process. It typically takes place after the visual inspection and before the mechanical pre-purchase inspection.

All systems are tested during this flight to ensure their operation. The buyer representatives are typically permitted to observe the flight while the flight crew demonstrates the operation of each

system. Certain system tests that require maintenance after their activation are normally restricted to flights that terminate at the pre-purchase inspection facility.

It's important to note that contractual provisions almost always require that the seller maintain operational control of the aircraft due to FAA regulations and insurance requirements. Hands-on flying by the buyer is neither usual nor common in jets, as is sometimes the case in the purchase of smaller or piston aircraft. Operational control of a jet is a serious matter, and few sellers are willing to relinquish that responsibility to a prospective buyer. When completing an operational check flight in a single-pilot aircraft, the buyer representative can usually sit in the right seat and ask the pilot in command to demonstrate system operations. For aircraft requiring two crew members, it is common for the buyer representative to sit in a seat nearest the cockpit and observe the activation of each system as requested once outside of the sterile cockpit environment.

The goal of the operational check flight is to identify any discrepancies or issues requiring further attention. These findings are then provided to the inspection facility for validation and classification as either airworthiness or non-airworthiness-related items. A well-performed operational check flight rarely reveals any surprises that would lead the buyer to reject the aircraft, but it does happen on occasion.

While some buyers may request the check flight to occur after the Return to Service, it is advisable to conduct it immediately before the pre-purchase inspection and as the last flight prior to the inspection. By doing so, you can obtain a clearer picture of the aircraft's condition, potentially saving costs associated with inspection requirements in the instance of the aircraft being rejected after the operational check flight.

It's worth noting that a second, post Return to Service flight may be necessary in certain circumstances, such as if repairs involving the flight controls or engines have been completed. The inspection facility will dictate if this should be done.

This thorough evaluation ensures a buyer's confidence in the aircraft's condition before finalizing the purchase.

Records Review and Research

During the pre-purchase inspection, the records review plays a crucial role in verifying the aircraft's maintenance history and ensuring its airworthiness. To carry out this task, specialized personnel at a inspection facility are employed, such as a quality assurance inspector or chief inspector.

The depth of a logbook review can vary; therefore, it's important to discuss the expected scope and deliverables well in advance. For instance, some inspectors limit their focus to checking the status of Airworthiness Directives (ADs) and Mandatory Service Bulletins related to the airframe and engines, a cross-check of the completeness of recent inspections referenced in the maintenance tracking report, and a search for evidence of any major or minor repairs. Additionally, an STC search and review for compliance with Instructions for Continued

Airworthiness (ICAs) are typical. The findings report could be just a few paragraphs long due to its high-level overview.

On the other hand, other inspectors may delve even deeper into the records review and provide an extensive report on the history of the aircraft as notated by the records. They meticulously cross-check every Form 8130-3, tracing them to the individual maintenance transaction record. They also search through all ADs, Service Bulletins, and Service Letters to ensure compliance. Furthermore, they cross-check all reported maintenance events to confirm the presence of all necessary records. In case the inspector questions the deliverable requirement in terms of the depth of the report required, the buyer representative can provide valuable guidance into the intended scope of the inspection.

It is important to have the specifications listed in the aircraft purchase agreement cross-checked and verified at this time.

Mechanical Pre-Purchase Inspection

Scope - The scope of the pre-purchase inspection should be made in consultation with an expert in the maintenance of the aircraft model being reviewed. Consideration should be given to the maintenance inspection schedule for the aircraft and where the aircraft sits within that schedule, recency of last major inspection and/or pre-purchase inspection.

Note that there is no regulatory guidance related to a pre-purchase inspection. However, the word "inspection" does have a specific regulatory meaning with respect to the Federal Aviation Regulations (FARs). While our inspection uses the colloquial terms of prebuy or prepurchase inspection to address the mechanical evaluation of an aircraft, note that maintenance facilities will call their review of an aircraft's mechanical condition a "survey" or "evaluation."

Choosing the Facility - There are several considerations when choosing a facility to accomplish a pre-purchase inspection. One of the most important considerations is to choose a facility with expertise on the make and model aircraft being evaluated. The simplest choice is the closest manufacturer-owned or authorized facility that doesn't currently maintain the aircraft and has availability to commence the inspection that meets the needs and desires of both buyer and seller, followed by an independent shop that specializes in the model of aircraft.

Establishing the Ground Rules - It is advised to have an initial intake meeting that includes the buyer and seller representatives along with the project manager at the inspection facility. During this meeting, the method and frequency of communication surrounding discrepancies noted and the approval process should be made clear to all parties, with a projected date for a final list of discrepancies to be provided. Most sellers agree to a fully transparent process where all parties are provided information at the same time, but some sellers will insist on being informed of issues before the buyer. Since the buyer is usually the party paying for the pre-purchase inspection, the buyer should ensure that all information needed to decide on the acceptance of the aircraft is provided directly by the inspection facility.

Pre-Purchase Inspection Report - After the evaluation is complete, the inspection facility will provide a report, summarizing its findings. The findings could include both airworthiness-related and non-airworthiness-related discrepancies, missing records (such as traceability of replacement parts or life limited components), an airworthiness directive compliance list, and a summary of items noted in the review of note(s) or items of note.

Seller Responsibilities - The APA will outline the seller's responsibilities related to the correction of all discrepancies, or just those that are related to the airworthiness of the aircraft, and the timeframe for approval of discrepancy corrections.

Buyer Responsibilities - The buyer is responsible to either accept or reject the aircraft through the means of written technical acceptance of the aircraft after a complete discrepancy list has been issued. The timeframe is outlined in the APA. Additionally, there may be discrepancies that fall outside the scope of the seller's responsibility to correct that the buyer may choose to address after technical acceptance or closing.

Technical Acceptance - A key milestone during the acquisition or sale of a jet aircraft is the technical acceptance. After receiving the pre-purchase inspection report, the buyer is granted a contractually specified number of days to analyze the results. This analysis is needed to determine whether the aircraft meets the delivery conditions outlined in the aircraft purchase agreement.

At the deadline, the buyer must formally decide to accept or reject the aircraft. This critical junction emphasizes the significance of accurately analyzing and interpreting the prepurchase inspection results. At this point, a final commitment to acquire the aircraft is made, or the aircraft is rejected if it is unable to meet the delivery conditions outlined in the APA. In lieu of rejecting an aircraft that is unable to meet the delivery conditions, such as due to undisclosed damage or corrosion history, seller and buyer may decide to negotiate an adjustment of the sale price.

In some instances, correcting discrepancies may be a condition for technical acceptance. The buyer's submittal of the technical acceptance to the seller marks the end of the due diligence portion of an aircraft transaction.

Return to Service - Once all approved discrepancies have been corrected, the maintenance facility will return the aircraft to service by providing a written certification in the aircraft's logbook, verifying that the aircraft is airworthy.

XI. DELIVERY

The closing and delivery of the aircraft will normally occur either at the location of the maintenance inspection facility (if state sales and use tax requirements in that state are acceptable to purchaser) or the aircraft may be repositioned to a more favorable location for closing. The APA will outline the responsibility for the movement costs, if any.

XII. REGISTRATION AND CLOSING PROCESS

For an aircraft that is already U.S. registered, and a prospective owner that is a U.S. citizen, resident, partnership or corporation, the registration process is straightforward and handled by the escrow agent. Alternative methods of registering a U.S.-based and operated aircraft exist, such as using a non-citizen trust to hold title of the aircraft.

Documents to be prepared ahead of closing and filed at closing include:

- FAA Form 8050-2 (FAA Bill of Sale) – filed with the FAA Registry to document the transfer of aircraft ownership
- FAA Form 8050-1 (FAA Registration Application) – filed with the FAA Registry
- Statement in Support of Registration for buyers structured as limited liability companies
- FAA Form 8050-135 (FAA Entry Point Filing Form) - for those opting to register their interests on the International Registry
- Declaration of International Operations – filed with the FAA Registry to obtain a temporary registration valid for a planned international flight
- For importations, deregistration from the country of previous registration must be provided

The APA may also reference other required non-FAA documents such as the warranty bill of sale and the delivery receipt. The escrow agent will provide title searches and a preliminary closing statement addressing all disbursements to be made at closing.

After all documents have been prepared and are held in escrow, title searches have been reviewed, and funds for closing have been placed in escrow, the escrow agent will obtain approval from purchaser and seller to close either through a closing call or email authorization. The filing of all documents with the FAA will then occur as well as the disbursement of all funds approved by the parties on the closing statement.

While not required by the FAA, it's good practice to update the ELT registration immediately upon the transfer of ownership of an aircraft and prior to the first flight completed by the new owner.

XIII. LEASE AND FINANCE TRANSACTIONS

Business aircraft lease and financing transactions typically involve various structures tailored to meet the specific needs and financial objectives the parties involved. These structures can vary in complexity and may include operating leases, finance leases, sale-leasebacks, and asset-based financing arrangements.

Operating leases are a common structure in the business aviation industry and offer lessees flexibility without the burden of ownership. In this structure, the lessor retains ownership of the aircraft and leases it to the lessee for a predetermined period, typically shorter-term. Operating leases often include maintenance and other services, providing lessees with a comprehensive solution while avoiding the risks associated with ownership, such as residual value exposure.

Finance leases, also known as capital leases, resemble loan arrangements more closely. In finance leases, the lessee effectively assumes the risks and rewards of ownership while the lessor retains legal ownership of the aircraft. Finance leases are often used for longer-term arrangements and may offer lessees tax advantages, as they can typically claim depreciation and interest expenses. This structure allows lessees to effectively finance the acquisition of the aircraft while benefiting from potential tax benefits and preserving liquidity.

Sale-leaseback transactions are another common structure in business aircraft financing. In a sale-leaseback, the owner of the aircraft sells it to a lessor and then leases it back for continued use. This arrangement allows owners to unlock capital tied up in the aircraft while retaining access to it for business operations. Sale-leasebacks can provide liquidity, tax benefits, and operational flexibility, making them an attractive option for companies looking to optimize their capital structure and cash flow.

Asset-based financing arrangements involve using the aircraft itself as collateral for a loan. In this structure, the lender provides financing based on the value of the aircraft, which serves as security for the loan. Asset-based financing can be a viable option for purchasers seeking to leverage the value of their aircraft to secure favorable financing terms or access additional capital for business expansion or other purposes.

Overall, the choice of structure in a business aircraft lease and financing transaction depends on various factors, including the financial objectives of the parties involved, tax considerations, risk tolerance, and the intended use of the aircraft. Working with experienced aviation finance advisors is essential to navigate the complexities of these transactions and ensure they align with the goals of all parties involved.



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