

**Exercise 31-3****Revised Aircraft Purchase Agreement**

Follow the instructions in the memorandum that follows:

To: D. Fender  
From: H. Flighty  
Re: Purchase of the I-800

Thanks for that last draft. It was very helpful in moving things along. Please do another one incorporating the comments that I gave you recently. In addition, Sam and I negotiated the following points that should also be incorporated:

1. I had my mechanic thoroughly inspect the I-800. He reported that one of the engines (Serial No. 72725) is not working properly. Sam promised to get it fixed after we sign. He also promised that my mechanic could reinspect it and that I would only have to purchase the Aircraft if the mechanic determines that the engine is in good working order, ordinary wear and tear excepted. Keep out of the contract the details of when and how the reinspection will occur. Also, don't worry about the serial number. I know that's correct even though Sam got the model number wrong in the last draft.
2. Sam mentioned that he had spoken to Wright Aviation LLC, aircraft brokers, but had never hired the company to sell the I-800 on his behalf. I told Sam that I wanted that in the contract. He agreed. It would also be good to know that he didn't speak with anyone else.
3. Sam also told me that he had heard that I had tried to assign my rights under the Purchase Offer to Rob Robertson, his longtime business adversary. He was not happy. He has insisted on an anti-assignment and an anti-delegation provision in the Aircraft Purchase Agreement. He wants the contract to be clear that if I try to assign my rights, the assignment is unenforceable. He also wants to amend the Purchase Offer to include the same provision. Is that necessary? Please draft accordingly.
4. Please research whether Wings is required to obtain its stockholders' approval to sell the I-800. According to Sam, its board of directors has already authorized the transaction. What about my company? Is any authorization required to purchase? (As you know, the board of directors has already authorized the transaction.) If stockholder approval is required in either instance, please assume that it won't be obtained until after the agreement is signed. If approval of the Seller's stockholders is required, the Seller must be obligated to use its commercially reasonable efforts to get it. That way, the Seller can't get out of the deal by sloughing off its responsibilities and then claiming it couldn't get the approval. Essentially, that would give the Seller an option. By the way, do we need a separate section obligating the Seller to use its commercially reasonable efforts to obtain the stockholder consent (if required), or does another contract provision already address this point? Finally, if any approval is required, please decide for whom receipt of the approval should be a condition to closing. Please explain in your memo to me how you decide to address each of these issues in the agreement.
5. As you know, the wrong kind of fuel can damage a jet's engines. Sam told me that since he has owned the I-800, he has always used the appropriate fuel. I asked him about the period before his company owned the jet. He said that the manufacturer's sales agent had

assured him that the proper fuel had been used for all test flights. I told him that this point needed to be addressed in the contract.

6. Create a definition “Litigation Event” for Sections 7.4 and 8.4.

7. Please add the following additional provisions: merger, severability, and amendments.

Please send me both clean and redlined drafts so that I can easily see the changes you have made. In addition, write me a memo explaining anything significant I should know about. Keep the memo to one page, single spaced.

H.F.