

Robb Report

# Private Aviation

## SOURCEBOOK

### **A Guide to Buying**

**Aircraft, Fractional Shares, and Flight Services**

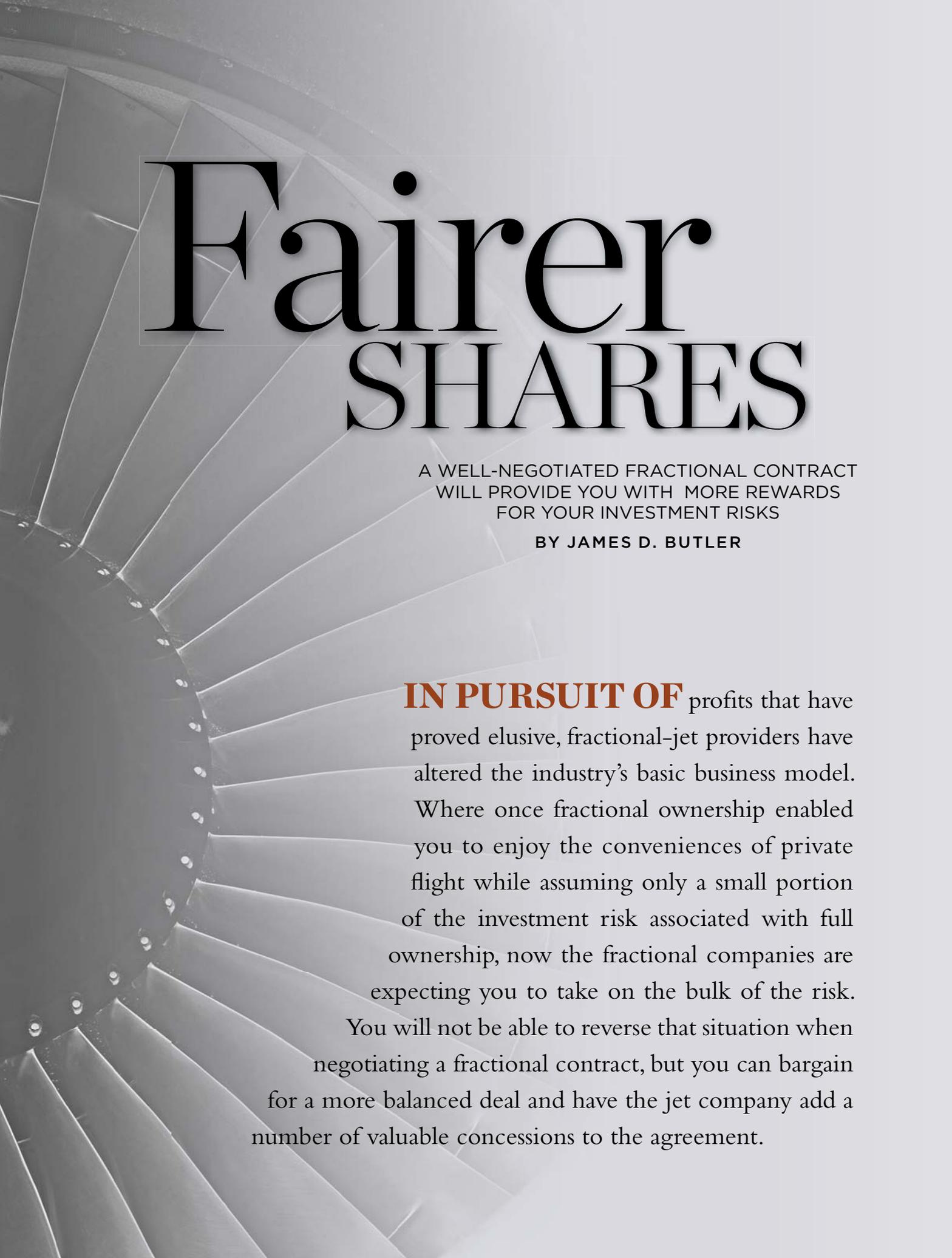


**CABIN LAYOUTS TO  
ACCOMPLISH ANY MISSION**

**A Portfolio of Interior Designs and Amenities**

**PLUS PRIVATE FLIGHT CHOICES FOR INTERNATIONAL TRAVEL**

SUPPLEMENT TO ROBB REPORT



# Fairer SHARES

A WELL-NEGOTIATED FRACTIONAL CONTRACT  
WILL PROVIDE YOU WITH MORE REWARDS  
FOR YOUR INVESTMENT RISKS

BY JAMES D. BUTLER

**IN PURSUIT OF** profits that have proved elusive, fractional-jet providers have altered the industry's basic business model. Where once fractional ownership enabled you to enjoy the conveniences of private flight while assuming only a small portion of the investment risk associated with full ownership, now the fractional companies are expecting you to take on the bulk of the risk. You will not be able to reverse that situation when negotiating a fractional contract, but you can bargain for a more balanced deal and have the jet company add a number of valuable concessions to the agreement.

Early on, in the mid-1990s, fractional providers marketed their service as a new and improved version of the existing aircraft-management arrangement. With fractional shares, owners would enjoy relative cost certainty and guaranteed liquidity, while the providers bore most of the variable cost risk. An owner paid a purchase price for a share of the aircraft at the outset, and then paid a monthly management fee and an hourly rate for flight time. The latter two expenses could increase over the duration of the contract term by no more than 3.75 percent per year or the rise in the consumer price index. In many cases, the provider guaranteed to buy the share back from the owner at a specified minimum price when the contract expired.

Over time, though, the industry has experienced increases in aircraft maintenance costs, pilot salaries, insurance fees, and other management and operating expenses, as well as a decline in the values of pre-owned aircraft. Providers have responded by adding pilot-salary and insurance surcharges to the bill. They also have raised fuel surcharges, which in some cases cover more than the actual cost of the fuel. In addition, and perhaps most significantly, the providers long ago eliminated any guaranteed floor on their repurchase prices of fractional shares. Consequently, today's fractional owners find themselves in much the same situation as outright owners: They pay for aircraft management, and they bear the variable cost risk and the risk associated with the price fluctuations in the secondary market.

In the coming years, it is likely that fractional providers will continue shifting variable costs in a business where expenses are difficult to control. When you also consider the impact of the stock-market gyrations and the economy as a whole on the private aviation industry, it becomes clear that fractional providers will have to operate their businesses creatively in order to survive and thrive. Therefore it is essential that you negotiate the best possible deal before signing a fractional agreement.

“What’s negotiable?” This is the question I hear most frequently from private jet travelers, whether they are considering a fractional share, a jet card, or even just a charter flight. “A lot” is usually the answer I give. Indeed, the larger the investment, the more flexible the jet provider likely will be.

For any fractional contract, a jet company has a basket of concessions that it can use to seal the deal. The key is to negotiate for concessions that add value for you. For example, if all your flights are longer than one hour, you will find no value in a short-leg waiver, which allows a fractional owner to pay for the actual flight time instead of paying the one-hour minimum rate. Thus if you negotiate for this concession, you will waste part of the value available in the basket, costing you the opportunity to negotiate for other, more beneficial concessions.

## TRADITIONAL CHARTER Extra Fees Should Equal Provider’s Additional Costs

IF YOU ARE flying privately for the first time, or you have a specific trip that does not lend itself to the more substantial investments of fractional ownership or jet cards, pay-as-you go traditional charter might be the best choice.

Once you have identified a reputable charter operator, be certain that the price quote specifies the model and vintage of the aircraft that will be provided (and if possible, the tail number of the specific aircraft). Determine whether the price quote is firm and, if so, for how long. Find out what, if any, additional charges you will have to pay. Some operators will guarantee a price without a fuel surcharge for only a short period. Many operators add a 3-5 percent surcharge for credit-card payments. Some will waive this fee if you hold the reservation with a credit card but agree to wire payment within a short period after the trip.

It is essential that you understand the charter company’s cancellation policy. The operator is rightly concerned about tying up aircraft, but penalties should be assessed only for last-minute cancellations and should be based on costs actually incurred by the operator. If your itinerary involves deadheading the aircraft, the operator should try to sell those deadhead flights, and you should receive credit based on the fees it collects. —J.D.B.

## fairer shares

The other essential focus of any negotiation should be the contract's legal provisions. It is the contract, not the alluring brochure, that will govern your rights and obligations.

Fractional contracts appear to be short and full of boilerplate items. Some companies even will say they do not amend their contracts. Generally, this is not the case. For one of our clients, we recently negotiated more than 150 alterations to a fractional deal with a company that had claimed it did not change its contracts.

Some items should be nonnegotiable from your perspective. The jet company must be financially strong and have a proven track record. Its pilots and aircraft must have spotless safety records. And the aircraft must suit your needs; it must at least be the right cabin size, have the appropriate range, and offer sufficient space for luggage. If you have doubts concerning any of these points, you should not go forward.

Acquiring a fractional share is a fairly complicated transaction, and clauses in the contract relating to liability, cost sharing, and liquidity are all drafted for the fractional company's benefit. To make the contract more balanced, you will want to negotiate the liability provisions so that, at a minimum, the provider remains fully responsible for performing its obligations.

You will also want to be sure you understand the allocation of variable costs in the contract,

so that surcharges and other expenses that pop up later do not come as a surprise. And you will want to negotiate the buyback provisions so that the share is liquid and you can receive a fair price for it when you sell.

Additionally, you should work some sweeteners into the deal. These can include guaranteed upgrades to a larger aircraft if you need one and downgrades to a smaller aircraft when you want to save on fuel and a smaller cabin will suffice. You might also want to negotiate for extra flight time at the standard hourly rate, the aforementioned short-leg waiver, guaranteed use of two aircraft simultaneously when you are flying in passengers from multiple locations, and ferry-fee waivers when you make trips beyond the company's primary service area.

Depending on your travel needs, some of these concessions might be of no use. Bargain only for the concessions that add real value to your investment and provide you with the most reward for the cost-related risks the fractional providers now expect you to assume.

*James D. Butler is an attorney and the CEO of Shaircraft Solutions ([www.shaircraft.com](http://www.shaircraft.com)). Shaircraft negotiates private-air-travel investments for individuals and businesses, including fractional ownership, jet card programs, and charters. Butler also specializes in fractional-share valuation disputes.*

## JET CARDS Smaller Investment, Fewer Concessions

IF YOU FLY less than 50 hours per year, do not want to make a large up-front capital investment, and are willing to pay a premium to shift the variable cost risk to the operator, a jet card might be a better option than fractional ownership.

As with any contract, it is important to read the fine print of a jet card agreement. Try to negotiate a pay-as-you-go arrangement. If you are required to pay the entire purchase price up front, see if you can negotiate protections for your investment, such as a requirement that the jet company hold your funds in an escrow account.

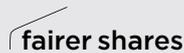
Flexibility is always a benefit, so be certain you understand how long you have to fly the purchased hours before they expire. If you are buying a jet card from a fractional company, retain the right to eventually roll over the hours into a fractional share.

As for expenses, know what additional costs, if any, will be your responsibility. Be especially sure to check whether you will have to pay fuel surcharges.

If you are dealing with a block charter company that does not own or operate some or any of its aircraft, but instead farms out flights to other operators, the

contract should include the models and vintages of the aircraft that will be provided to you. Be certain that you are comfortable with these aircraft, and confirm that all of the operators and planes have been approved by a reputable safety-rating service such as ARG/US or Wyvern.

Because your investment—and thus the company's profit—is smaller than in a fractional deal, expect fewer concessions. Nevertheless, do not hesitate to ask for any of the relevant sweeteners suggested for a fractional deal. They can only add value to your investment. —J.D.B.



**FLIGHT SERVICE DIRECTORY** We can recommend the fractional-ownership and jet card options listed here based on program, performance, accounting, and customer service.

**FRACTIONAL PROGRAMS** When you fly fractional, you invest in a limited partnership of sorts with a fractional provider, which handles scheduling, aircraft safety, and maintenance and provides experienced pilots.

Company **Avantair** Aircraft **Piaggio Aero P.180 Avanti** Services **Fractional ownership, Axis Lease Program, and Edge Card** Contact **877.289.7180, www.avantair.com**

Company **CitationAir** Aircraft **Cessna Citation CJ3, XLS, Sovereign, X.** Services **Fractional ownership, CitationAir Jet Card, Jet Access, Jet Shares, Jet Management, and Corporate Solutions** Contact **877.692.4828, www.citationair.com**

Company **Executive AirShare** Aircraft **King Air C90B, Super King Air 350, Phenom 300 and 100** Services **Fractional ownership** Contact **866.946.4900, www.execairshare.com**

Company **Flexjet** Aircraft **Various Learjet and Challenger models** Services **Fractional ownership, whole aircraft management and ownership, and access to the Flexjet 25 Jet Card,**

**Flexjet charter card, and on-demand charter brokerage** Contact **800.353.9538, www.flexjet.com**

Company **Flight Options** Aircraft **Hawker 400XP, Phenom 300, Citation X, Legacy 600** Services **Fractional ownership, Jet Club Membership, and JetPASS Select Jet Card** Contact **877.703.2348, www.flightoptions.com**

Company **NetJets** Aircraft **Various Cessna, Hawker, Gulfstream, and Dassault Falcon models** Services **Fractional ownership, jet cards, leases, aircraft management, on-demand charter services, and value-added programs** Contact **877.356.5823, www.netjets.com**

Company **PlaneSense** Aircraft **Pilatus PC-12** Services **Fractional ownership** Contact **866.214.1212, www.planesense.com**

**JET CARDS** Jet cards range from simple debit-card accounts, from which issuers deduct flight fees as customers travel, to more elaborate structures that allow travelers to use a specific aircraft type for a set number of hours.

Program **Avantair Edge Card** Offered by **Avantair** Aircraft **Avantair's fleet of Piaggio Aero P.180 Avanti jet-powered turbo-props** Description **Customers purchase access to the Avantair fleet in 15- and 25-hour increments** Contact **877.289.7180, www.avantair.com**

Program **CitationAir Jet Card** Offered by **CitationAir** Aircraft **CitationAir fleet** Description **Minimum deposit of \$100,000 provides access to the CitationAir fleet at rates that are locked in for one year** Contact **877.692.4828, www.citationair.com**

Program **Delta Private Jets Card** Offered by **Delta Private Jets** Aircraft **Access to Delta Private Jets fleet and Delta Air Lines first class** Description **Customers purchase access to concierge team for booking private and commercial travel** Contact **877.541.3548, www.deltaprivatejets.com**

Program **Flexjet Charter Card** Offered by **Flexjet** Aircraft **Jets of various makes offered by category** Description **\$100,000 initial deposit provides access to aircraft in various categories at flat hourly rates** Contact **800.353.9538, www.flexjet.com**

Program **Flexjet 25 Jet Card** Offered by **Flexjet (operated by Jet Solutions)** Aircraft **Learjet 40 XR, Learjet 45 XR, Learjet 60 XR, Challenger 300, and Challenger 604** Description **Customers purchase access to aircraft in 25-, 30-, and 35-hour**

**increments** Contact **800.353.9538, www.flexjet25.com**

Program **JetPASS Select Jet Card** Offered by **Flight Options** Aircraft **Hawker 400XP, Citation X, Legacy 600** Description **Customers purchase access to Flight Options aircraft in 25-hour increments** Contact **877.703.2348, www.flightoptions.com**

Program **SuiteKey Membership** Offered by **JetSuite** Aircraft **Embraer Phenom 100** Description **Customers purchase flight hours with hourly- or daily-rate jet card or at pay-as-you-go retail pricing** Contact **866.779.7770, www.jetsuite.com**

Program **Marquis Jet Card** Offered by **Marquis Jet** Aircraft **NetJets fleet** Description **Customers purchase access to NetJets aircraft in 25-hour increments** Contact **866.538.8600, www.netjets.com**

Program **Sentient Jet Card** Offered by **Sentient Jet** Aircraft **Jets of various makes offered by category** Description **\$100,000 initial deposit provides access to aircraft at hourly rates locked in for two years** Contact **866.602.0051, www.sentient.com**

Program **Sentient 25-Hour Jet Card** Offered by **Sentient Jet** Aircraft **Jets of various makes offered by category** Description **Customers purchase access to Sentient fleet in 25-hour increments** Contact: **866.602.0051, www.sentient.com**