

1904767 Ontario Limited operating as

Fisher Flying Products

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Service Letters and Bulletins: <http://www.fisherflying.com/public/notices.htm>

Aircraft Kit, Plans, and Products Agreement

This document, hereinafter referred to as the “**Agreement**”, is between _____, a person, corporate person, or group resident in _____ in the state or province of _____ in the country of _____, hereinafter referred to as the “**Buyer**”, and 1904767 Ontario Limited, operating as Fisher Flying Products, a corporation based in Dorchester, Ontario in the country of Canada, hereinafter referred to as the “**Seller**”.

The purpose of this Agreement is to record the expected relationship between Buyer and Seller and ensure that the Buyer understands the limits on liability under which the Seller must operate in order to make sure these limits can be reasonably and practically covered by the Seller, and so the Seller can continue to provide maximum support for its customers.

This Agreement contains the entire understanding between the Buyer and Seller. No verbal or written communication can be construed to modify this Agreement in any way save and except this Agreement may be modified by a written agreement signed by both parties.

It is the intent of both the Buyer and Seller that their respective heirs, executors, personal and legal representatives, successors, and assigns shall respect and be bound by this Agreement.

General Conditions:

Buyer acknowledges that all products and kits supplied to those building aircraft to the Seller’s designs are provided as a service only and that the Buyer is in fact and in law the manufacturer of the aircraft.

By signing this Agreement Buyer agrees for Buyer, and for Buyer’s heirs, executors, successors and assigns, to accept all products supplied by Seller under the following conditions:

1. Buyer affirms Buyer has conducted Buyer’s own evaluation and due diligence in evaluating the suitability of Seller’s products for Buyer’s requirements and that the work of Seller is acceptable.
2. All plans, products, and kits (collectively, the “**Products**”) are produced from and embody the intellectual property of the Seller and are made available to the Buyer for the production of no more than *one* aircraft per sale of a kit from Seller (“**Kit**”). Plans for Kits may not be transferred to another person or group for the production of *additional* aircraft. If unused by Buyer, plans or Kits may be transferred to another person or group only if the transfer is registered with the Seller in order to avoid any concerns or misunderstandings, including refusal of service. A person receiving plans or a Kit, a partially built or completed aircraft from a Kit, or any other Products to which this Agreement applies, shall be required to sign this Agreement to protect the original Buyer and Seller from misunderstandings.
3. All trademarks, trade names, and copyrights remain the intellectual property of Seller.
4. Modification of any Product, including modification of an aircraft produced from a Kit, such that the aircraft does not exactly reproduce the intended aircraft shall require the Buyer to remove all reference to Seller, and use a different design and designer name. Buyer has no right to sell or copy any intellectual property of Seller. Buyer understands and acknowledges that even modifications which *seem* very minor may have serious unintended consequences which may make the aircraft unsafe.
5. Seller’s liability is strictly limited to: (a) the replacement of any Products, parts, or materials determined to be unsatisfactory for incorporation in Buyer’s aircraft, or (b) refund of the actual selling price before shipping. Seller is acknowledged by Buyer to have no liability whatsoever for incidental or consequential damages. The maximum aggregate liability of Seller to Buyer shall be

limited to the amount paid by Buyer to Seller for the Products determined to be unsatisfactory. Buyer specifically relieves Seller of all other liability.

6. Buyer acknowledges that flying any aircraft involves serious risk, including risk of extreme injury or death. Buyer further understands that no aircraft can be made impervious to failure under all conditions of operation or maintenance. Buyer shall be responsible for getting proper training and licensing, ensuring proper construction, maintenance and certification/registration of the aircraft and assumes all risk, and agrees to hold Seller blameless.
7. Buyer acknowledges that Buyer has been informed that Seller does not carry any product liability insurance which a customer could benefit from, further acknowledges that the design and construction of kits for wooden aircraft is by its nature a small business pursued by people with a love of family-sized aircraft and a desire to help others of modest means build and fly their own planes, and Buyer understands that there are *no deep pockets* in this industry.

Stopping Production:

In the event that Buyer has ordered a Kit which is in production but Buyer realizes that Buyer cannot continue to assemble or build such Kit, Seller may, upon Buyer's request, broker any Kits or portions of Kits not already shipped or repurchase them, at Seller's option. Any funds received shall go first to pay any amount owed Seller, with the remainder going to Buyer.

Shipment, Delivery, and Unforeseen Problems:

While Buyer is welcome to pick up all items purchased at Seller's location within 30 days of the order being ready, most orders will be shipped *ex works* (INCOTERMS 2010). Buyer is otherwise responsible for paying shipping and insurance costs, plus any taxes, duties or other charges imposed by any governmental body. Each of Seller and Buyer acknowledges that they cannot control the actions of carriers. If shipments are lost, damaged in transit, or otherwise do not arrive at the Buyer's destination, the person who contracted with the shipper shall collect on insurance and promptly pay such money to Seller for replacement and Seller agrees to provide a new shipment for such damaged items without change in price provided such replacement is ordered within 12 months of initial shipment and payment is received in full. Buyer understands that reasonable time will be required for Seller's small operation to produce replacement items.

In the event of unforeseeable problems beyond the control of Seller, such as acts of any government, sudden materials shortages, strikes or other labor troubles, weather problems, *et cetera*, the Buyer will allow reasonable time for the Seller to cope with the stresses and times involved, while the Seller makes good on the responsibility to provide the Product. If the Product cannot be provided for any of the above reasons, Buyer's payments will be refunded as soon as is reasonably possible.

Support:

If Buyer is building a Kit, Seller expects to provide reasonable support to the best of Seller's ability by mail, email, or telephone, including explanatory sketches if needed. Buyer's questions are welcomed because they help Seller refine the plans, explanatory materials, and other support materials.

Buyer acknowledges that even if Seller provides support, instruction, or even supervises some aspect of construction individually or in a training session, Seller ultimately has no control over the Buyer's work and is not in any way whatsoever the manufacturer of this aircraft. Buyer is the only legal builder. Seller therefore disclaims and excludes all warranties other than as expressly described herein and specifically does not (and cannot) warrant that any aircraft produced by Buyer will be airworthy, or will be able to be certified or registered as required by various government authorities.

New Defectives and Missing Parts:

Buyer should carefully determine that all parts and Products shipped are complete and undamaged upon arrival. Upon receipt of a shipment, Buyer shall inventory and ascertain any damage in shipping and advise Seller of any missing, damaged or defective Products ("**Rejected Product**") within thirty (30) days of (i) invoice date or (ii) receipt of shipment if more than twenty days after invoice date. Any notice of Rejected

Product(s) shall state why the Rejected Product is not acceptable to Buyer and be accompanied by evidence supporting such rejection (such as pictures). Upon Buyer notifying Seller of a Rejected Product, Seller shall promptly provide a return authorization for any Rejected Products for which Seller accepts responsibility (in whole or in part) or determines responsibility for the problem and any payment required. Only Rejected Products for which a return authorization has been provided shall be returned to Seller or otherwise dealt with in accordance with Seller's instructions.

Satisfaction:

All products are 100% satisfaction guaranteed. Any unused Product on Seller's current list may be returned for a full refund of the purchase price. This is in place of all other warranties or liability. A standard re-stocking fee of fifteen percent (15%) shall apply on all unused and undamaged Products, which fee may be waived by Seller in writing in whole or in part.

The "satisfaction" guarantee is in place of any and *all* other possible warranties, guarantees, or liabilities. Should Buyer at any time be dissatisfied with any Product supplied by Seller on its current list of Products, Buyer may return the unused Product to Seller for a refund of the original price, excluding any shipping or handling charges either way. Seller will replace any Product determined not to be satisfactory with a duplicate. If this cannot be done, or if Buyer prefers, the original purchase price will be refunded. The satisfaction guarantee is provided as a good faith courtesy and as Buyer's agreed-upon *sole remedy*.

Buyer acknowledges that Seller only warrants that Seller will do its best according to Seller's own judgment. There is absolutely no warranty that design or production work will be perfect. No matter how hard Seller tries there may be errors, omissions, or things which could have been done better. Where Buyer requests a product be replaced or returned for a refund, it will be done under the "satisfaction guarantee" as above. Buyer assumes all risk in using Seller's plans, Kits and other Products.

Handling of Disputes:

Should the good will of Buyer and Seller not be sufficient to resolve any differences, both parties may choose a representative to undertake mediation or arbitration for them. The two parties chosen will then agree on a third party to sit with them to resolve these differences. Should the parties fail to achieve a satisfactory solution, any remaining dispute shall be governed only by the laws of the Province of Ontario, and where applicable the federal laws of Canada. The venue for such disputes will be exclusively in the County of Middlesex, Ontario, Canada.

If a court decides that any part of this Agreement is invalid or unenforceable, the rest of the Agreement remains in force.

No action or inaction of the Seller shall have the effect of nullifying any portion of this Agreement all provisions of which remain in force whether they have been utilized in the past or not.

In acceptance of this Agreement representatives of Buyer and Seller have hereto set their hands and seals:

Name of Buyer (printed)	Signature of Buyer/Seller	Date
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Authorized Representative of Seller	Signature of Seller's Representative	Date
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