

This document supports a complete article on the building, by GMT Composites of Bristol, Rhode Island, of a mast for the sailing vessel *Morgan's Cloud*. It should be read in conjunction with the article, available at:

http://www.morganscloud.com/gear_failures_fixes/gfmast.htm

To learn more about *Morgan's Cloud* and her owners, Phyllis Nickel and John Harries, go to:

www.morganscloud.com

**AGREEMENT BETWEEN
GMT COMPOSITES AND JOHN HARRIES**

AGREEMENT made on September 13, 2004 by and between GMT Composites Inc., of Bristol, Rhode Island, (hereinafter called the "Builder") and John Harries (called the "Buyer").

ARTICLE I - The Builder agrees to build for the Buyer a Mast and supply related equipment as described in the proposal dated September 1, 2004 (hereinafter called the "Design"), attached hereto, with the following changes:

ARTICLE II - The Buyer agrees to purchase said Mast and Equipment for the sum of \$60,265 to be paid to the Builder in installments as follows:

Deposit with signed contract:		\$ 5,500.00	
Progress payment(s):	1st	\$ 18,255	Begin construction
	2nd	\$ 18,255	Half way point
Balance due prior to shipment:		\$ 18,255	

The cost of packing, freight, transit insurance, federal, state or local sales, use or excise taxes, which items, if any, are not included and shall be paid by the Buyer.

It is further understood and agreed that at all times during the construction the title to the work shall be in the Builder and until the same shall leave the shop of the Builder, the Builder, at his own expense, shall keep the work and any incomplete part thereof, fully insured against damage or loss from all perils in an amount not less than the payments that shall have been made by the Buyer to the Builder on account of this Agreement; the loss, if any, to be payable as their respective interests may appear. At the time of delivery, all liability of the Builder for insuring the equipment shall cease.

ARTICLE III - It is agreed that if the Buyer should fail to make when due any payment required by this contract, the Builder may cease working upon said work until payment is made thereby excusing delay in delivery by the amount of time actually lost as a result, and the Builder may charge the Buyer interest on the then due amount from the date due until such payment is received, at the rate of 18% per annum. Further, if the buyer is one month late in payments to the Builder, the Builder may transfer to it- self title to the Mast as then constructed. All amounts paid by Buyer to date shall be retained by Builder, but, due to the custom nature of the product, additional damages up to the full contract price may be due.

ARTICLE IV - It is hereby understood and agreed that the sole warranty of the Builder is that the Mast delivered to the Buyer shall be free of all defects of workmanship and engineering, to the extent that such engineering is provided by the Builder, for one year from the date of delivery. This warranty shall be strictly limited, as follows:

1) This warranty only applies to any defect revealed, or failure incidental to, normal or anticipated use of the vessel of which it is a part, and this warranty shall be void if the vessel is not subject to normal care and maintenance or if the part is subject to neglect or abuse.

2) All warranties are void with the respect to any damage occasioned or resulting directly or indirectly from alteration, modification or repair of the Mast and Equipment unless such alteration, modification or repair has been previously authorized by the Builder and performed in a workmanlike manner. If such modifications or repairs have been made by Builder or by a third party of the Builder's choice pursuant to the terms of this warranty, it shall be a rebuttable presumption for the purpose of this clause only that the modification or repair was performed in a workman like manner. Use of wooden mast wedges as partners deck support will void GMT's limited warranty.

3) The Buyer shall give notice within fourteen days of discovery of any defect, and the Builder reserves the right to make its own inspection of the defect within a reasonable time after notification and prior to repair of same. In the event that any component(s) manufactured hereunder by the Builder is, in fact, defective, the Builder, or its authorized representative may either repair or replace the defective part or material, or may specify a third party (whether shipyard or otherwise) of the Builder's choice to make such repairs. After initial sail trials, Buyer shall be responsible for transportation to and from the repair facility and for all costs associated with removing and installing the equipment in the boat. If the Buyer shall elect to have the repairs made at other than the Builder's shop, or a facility selected by the Builder, then the Builder shall be liable only for that portion of the cost of repairs which would have incurred had repairs been made at the Builder's selected yard. The Builder shall use its best efforts to minimize the amount of time that Buyer's vessel may be out of service as a result of repairs to the components manufactured hereunder by the Builder. The foregoing notwithstanding and in consideration of the extraordinary warranty provided herein, the selection of a repair site, whether the Builder's shop or the facility of some third party, shall be made in the Builder's sole discretion and Builder makes no warranty herein as to the duration of any delay necessary for repairs.

Any other warranties, whether implied or otherwise of merchantability or fitness, are limited to the one year period stated above, and Builder and Buyer agree that Builder is not responsible for any damage to the original purchaser or any others for loss of time, inconvenience, loss or damage to personal property, injury to persons, loss of revenue or any other damages consequential or otherwise.

ARTICLE V - It is mutually agreed and understood that all extras or alteration by way of work, labor, material or equipment for said Mast and Equipment shall be ordered by the Buyer for the Buyer's account and responsibility, and that payment for said extras and/or alterations shall be due and payable at time of delivery.

ARTICLE VI - This Agreement shall be binding upon and inure to the benefit of the successors and/or assigns, and/or administrators of the respective parties hereto. This Agreement comprises the entire contract between the parties and no other representations are given or should be implied from any written or oral negotiations incidental to this Agreement. The terms of this contract may only be changed by a writing signed by the parties hereto.

ARTICLE VII - This contract shall be deemed executed in Rhode Island and shall be construed and enforced in accordance with Rhode Island laws. Any controversy or claim arising out of or relating to this contract, or breach thereof, which might be the subject of an action at law, or a suit in equity, shall be settled by arbitration at Providence, Rhode Island, in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The award of the arbitration shall include an award of attorney's fees and any other costs of arbitration and collection. In addition, the builder retains the right to secure a lien on the work if the buyer fails to make all required payments.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals to this instrument in duplicate the day and year above.

John Harries
Buyer

GMT COMPOSITES, INC.
Builder

By _____

By _____