

**SETTLEMENT AGREEMENT AND
RELEASE FROM LIABILITY**

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

This Settlement Agreement and Release from Liability ("Agreement") is executed between the College of the Mainland (the "College"), its trustees, officials, and employees, and Center for the Advancement of Process Technology, Inc. ("CAPT, Inc." or "the current CAPT, Inc.") and includes the following terms:

I. INTRODUCTION

WHEREAS, the College and CAPT, Inc. have entered into discussions regarding the resolution of the lawsuit styled, *College of the Mainland v. Center for the Advancement of Process Technology, Inc.*; Cause No. 08CV0024; In the 122nd Judicial District Court, Galveston County, Texas; and

WHEREAS, the College and CAPT, Inc. have agreed to compromise and settle all matters between them;

NOW THEREFORE, the parties voluntarily execute this Agreement with the express intention of settling all matters between them, and extinguishing all claims, obligations, causes of action, damages, or any other liability designated in this Agreement.

II. CONSIDERATION

In exchange for the consideration tendered by CAPT, Inc. as outlined below, the College, its trustees, officials, and employees, agree to the following:

A. The College shall dismiss with prejudice the lawsuit styled *College of the Mainland v. Center for the Advancement of Process Technology, Inc.*; Cause No. 08CV0024; In the 122nd Judicial District Court, Galveston County, Texas;

B. The College shall release, acquit, and discharge CAPT, Inc., its directors, officials, attorneys and employees, in both their individual and official capacities, from all obligations, demands, causes of action, damages, or liability of any nature, whether by statute, in tort, or in contract, attorney fees administrative costs, and any other costs, expenses, damages, or compensation which were raised or could have been raised against it in the lawsuit styled *College of the Mainland v. Center for the Advancement of Process Technology, Inc.*; Cause No. 08CV0024; In the 122nd Judicial District Court, Galveston County, Texas; and

C. The College shall be the fiscal agent of National Science Foundation ("NSF") grant funds allocated for the operation of the combined CAPT organization. The "combined CAPT organization" will be created by the joining of the operations of the current CAPT, Inc. and CAPT at the College and shall disburse the funds in compliance with such grant(s); and

D. The ownership of all assets and current intellectual property related to the advancement of process technology the subject matter of the lawsuit shall be jointly owned in equal undivided interests by the College and CAPT, Inc. All intellectual property developed in the future by the combined CAPT organization also shall be owned jointly in equal undivided interest by the College and CAPT, Inc. One exception will be in force for intellectual property created under the current NSF grant, DUE 0532652, during the current grant period. Upon expiration of the current grant, the intellectual property related to that grant shall be jointly vested with the College and CAPT, Inc.

In exchange for this consideration, CAPT, Inc. agrees to:

E. The sole purpose of the combined CAPT organization shall be the advancement of process technology and CAPT, Inc. shall be a direct-support, not-for profit, 501(c)(3) organization housed at the College;

F. Director and Staff Responsibilities: The Director and staff of the combined CAPT organization shall be employees of the College and subject to the College's policies and procedures. As College employees, the combined CAPT organization staff will be eligible to participate in the State of Texas health and retirement benefits. The Steering Committee members of CAPT, Inc. are not staff or employees of the College other than the two (2) representatives of the College. The staff shall take direction from the Director and support the purposes and mission of the combined CAPT organization. The Director shall be responsible for hiring and discharging staff, staff assignments, and performance reviews in compliance with College policies and procedures. The Director shall take direction from the Chair of the CAPT, Inc. Steering Committee and the College's President or President's designee jointly. The annual evaluation of the Director will be conducted by the College after consultation with the Steering Committee. The combined CAPT organization shall be subject to an annual external audit as determined by the College. The combined CAPT organization shall reimburse the College for the salaries of the combined CAPT organization's staff on a monthly basis;

G. Steering Committee Responsibilities: The Steering Committee shall consist of fifteen (15) members; one (1) from each of the nine (9) process technology alliances, and two (2) appointed by the College, one of whom shall be the President or designee; two (2) from the academic community other than the College and two (2) from the industry as identified by the Steering Committee after consultation with the College President or designee. The Steering Committee shall be responsible for general oversight of the combined CAPT organization such

as advising the Director, reviewing and approving deliverables, promoting the combined CAPT organization, and working towards the goals of advancing process technology and attaining self-sustainability. Toward those ends, the Chair of the Steering Committee and the College President or designee shall meet on a regular basis to discuss the progress of the combined CAPT organization and concerns of the Steering Committee and of the College. The Steering Committee may appoint three members to serve on hiring committees to fill staff and Director vacancies. The Steering Committee will participate in the evaluation of the combined CAPT organization Director.

H. Current bylaws and articles of incorporation of CAPT, Inc. must be changed to conform with this agreement. These and any future changes to the bylaws and articles of incorporation of CAPT, Inc. must be approved by both the College Board of Trustees and the Steering Committee.

I. The combined CAPT organization may expend funds from the College's NSF grant funds account designated for the operation of the combined CAPT organization in the same manner in which the CAPT department at the College known as CAPT, COM, currently operates and makes such withdrawals;

J. The combined CAPT organization will administer the NSF grant objectives;

K. Income generated by the combined CAPT organization shall be directly deposited into its bank account for the sole use of advancing process technology;

L. The combined CAPT organization shall provide an accounting to the College as requested, and its financial records will be available for inspection by the College upon request by the College president;

M. Joanna Kile shall not be affiliated with the combined CAPT organization in any manner; and

N. The current CAPT, Inc. releases, acquits, and discharges the College, its trustees, officials, attorneys, and employees, in both their individual and official capacities, from all obligations, demands, claims, causes of action, or liability of any nature, whether by statute, in tort, or in contract, attorneys' fees, administrative costs, and any other costs, expenses, damages, or compensation, which were raised or could have been raised against the College in the lawsuit styled *College of the Mainland v. Center for the Advancement of Process Technology, Inc.*; Cause No. 08CV0024; In the 122nd Judicial District Court, Galveston County, Texas.

III. DENIAL OF LIABILITY

The consideration given by all parties is to compromise all claims between the parties, to avoid litigation, and to buy peace. No consideration given by any party shall be construed as an admission of liability, any such liability being specifically denied by signing this Agreement.

IV. LEGAL FEES AND COSTS RELATING TO THIS AGREEMENT

Each party will bear its own attorneys' fees and costs relating to the lawsuit and this Agreement.

V. GOVERNING LAW AND VENUE

Any legal proceeding relating to the interpretation or breach of this Agreement shall be governed and interpreted by Texas law. Venue for any such proceeding shall lie in Galveston County, Texas.

ENTIRE AGREEMENT

This Agreement is the entire agreement between the parties, and supersedes any previous oral or written agreements. Any amendments to this Agreement shall be in writing and approved by all parties.

INDEMNIFICATION


CAPT, Inc. agrees to indemnify, defend, and hold harmless the College, its trustees, officials, and employees from any claims made by any party against the current CAPT, Inc. due to the conduct of CAPT, Inc.

VI. MISCELLANEOUS

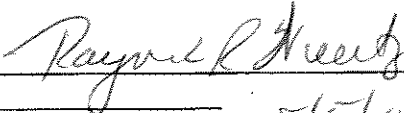
The College, its trustees, officials, and employees, and CAPT, Inc. expressly warrant and represent to each other that before executing this Agreement, they have fully informed themselves of its terms and conditions, contents and effects. Furthermore, they understand this is a full, final, and complete settlement of all claims between the parties. They understand that this Agreement has been approved by all necessary parties to this Agreement. This Agreement applies only to the resolution of the lawsuit styled *College of the Mainland v. Center for the Advancement of Process Technology, Inc.*; Cause No. 08CV0024; In the 122nd Judicial District Court, Galveston County, Texas, and no other subject area. In addition, this Agreement is signed upon advice of counsel, and without coercion or reliance upon any statement, promise, or representation not recited in the Agreement.

WITNESS OUR HANDS BELOW.

COLLEGE OF THE MAINLAND

By: 
President
Michael A. Elam
Date: 4-20-09

**CENTER FOR THE ADVANCEMENT OF
PROCESS TECHNOLOGY, INC.**

By: 
Date: 5/5/09

COLLEGE OF THE MAINLAND
Plaintiff,

V.

CENTER FOR THE ADVANCEMENT
OF PROCESS TECHNOLOGY, INC.
Defendant.

§ IN THE DISTRICT COURT OF
§
§ GALVESTON COUNTY, TEXAS
§
§
§
§ 122nd JUDICIAL DISTRICT

ORDER OF DISMISSAL WITH PREJUDICE

The Court, having considered Plaintiff College of the Mainland's (the "College") Notice of Dismissal with Prejudice in the above-styled and numbered cause, is of the opinion that College's claims against Defendant Center for the Advancement of Process Technology, Inc., ("CAPT, Inc." or "Defendant") should be DISMISSED.

It is therefore, ORDERED, ADJUDGED, AND DECREED that Plaintiff College of the Mainland's claims against Defendant Center for the Advancement of Process Technology, Inc. are DISMISSED WITH PREJUDICE.

It is further ORDERED, ADJUDGED, AND DECREED that each party shall bear its own costs.

SIGNED this 15 day of May, 2009.

John Ellison
JUDGE PRESIDING

LATONIA D. WILSON
CLERK DISTRICT COURT
FILED
[Signature]
MAY 13 2009
GALVESTON COUNTY, TEXAS
BY *[Signature]*
Deputy

Code:
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I, Latonia D. Wilson, District Clerk and Custodian of Records for District Courts of Galveston, County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and filed in this office on the 15th day of May

2009, witness my official hand and seal of office this 8th day of June 2009

LATONIA D. WILSON, DISTRICT CLERK
Galveston County, Texas

By [Signature] Deputy