

## **Summary of Settlement Agreement**

### **1. Scope**

Guild can apply provisions of agreement to others. Baniel subject to Guild rules and procedures not inconsistent with agreement. If Guild policies change, Baniel may choose the newer requirements, or those in this agreement.

### **2. Dismissal**

Neither party can bring their claims again. Parties bear own costs. Guild pays all mediator fees

### **3. Trademark Validity**

Baniel acknowledges Guild's ownership and valid registrations of all Guild marks.

### **4. Release of Guild**

Baniel fully releases Guild from: any claims that could have been asserted at time of this agreement and agrees not to assert any future claims that the marks are or have become invalid or unenforceable.

### **5. Release of Baniel**

Guild fully releases Baniel from: a any claims that could have been asserted at time of this agreement, except for outstanding fees owed, and a provision regarding website linking.

### **6. Fees Owed**

Specifies fees paid and fees owed.

### **7. Baniel's Rights to Use Marks**

Baniel has rights to use Guild's marks providing she abides by all Guild rules regarding use of the marks not inconsistent with this agreement

### **8. Guild will accredit "Anat Baniel Method of Feldenkrais Training" (ABMFT) programs, provided they meet requirements.**

Students in current Baniel Method programs may apply up to 60 hrs attendance to future Baniel programs.

### **9. ABMFT programs must include**

statements regarding Guild ownership of its marks, and Guild accreditation on first page, and may included statement of Baniel's ownership of "Anat Baniel Method"

### **10. Specifies permitted use,**

appearance of terms "Anat Baniel Method" in connection with accredited training.

### **11. Guild acknowledges Baniel's ownership of terms "Anat Baniel" and "Anat Baniel Method",**

and will not restrict its use in derivatives that do not include Guild's marks. Baniel will take reasonable steps to prevent confusion with respect to Guild and its Marks.

## **12. Training and Enrollment**

Baniel may offer accredited trainings which differ from current standards:

- Baniel may offer training in 2 stages.
- Students may graduate after 540 hours as Feldenkrais ATM Teacher.
- Students may continue and complete 740 hours in Baniel's training, or complete another accredited training, and become certified practitioners.
- Students can't practice FI until graduating from complete training.
- Students will be able to call themselves Feldenkrais ATM Teachers, but not Feldenkrais teachers, not practitioners or Feldenkrais practitioners.
- Students and Feldenkrais ATM Teachers will be subject to Guild certification and recertification requirements, and other requirements applying to students and practitioners.
- All advertising and promotional materials for trainings must disclose:
  - Training involves 2 stages.
  - Number of hours and months to complete each stage
  - Graduates of stage 1 will be able to call themselves Feldenkrais ATM Teachers, but not Feldenkrais teachers, not practitioners or Feldenkrais practitioners, and will not be allowed to teach or practice FI until graduating from stage two or completing another accredited training.
- Maximum number of enrolled participants is 100. (see Exhibit A)

## **13. Training Staff Hours and Composition**

- Baniel may teach 35-78% of first 540 hours, and 35-100% of last 200 hours.
- At least 120 hours (22%) will be taught by at least 2 additional Guild certified trainers each teaching a minimum of approximately 60 hours.
- One certified trainer will be present at all times.
- The teacher/student ratio will be 1:20.
- At 21 students an additional Guild certified practitioner teacher of Baniel's choice shall be present. This teacher need not be a certified trainer or assistant. At 41 students an additional Guild certified trainer or assistant trainer shall be present. At 61 students an additional Guild certified practitioner teacher of Baniel's choice shall be present. This teacher need not be a certified trainer or assistant. At 81 students an additional Guild certified trainer or assistant trainer shall be present.

## **14. Review of Protocol Waived**

Baniel's Chicago 3 training proposal shall be accepted as a standing protocol. The review of the protocol and curriculum and the \$500 review fee are waived.

## **15. Baniel Reporting Requirements**

Accreditation fees and reporting due once per calendar year. Accreditation fees are prorated for the last 140 hours of training at the rate of 7/10 of the fees that would be due for 200 training hours.

## **16. Guild Contracts with Baniel Students**

Student membership in Guild is optional. Baniel will not be party to agreements between Guild and students.

## **17. Baniel's Contract with Baniel Students**

Contract will include statement of Guild's ownership of marks, and that marks cannot be used without Guild's authorization.

## **18. Non Discrimination**

Guild shall not discriminate against Baniel or her students.

19. **Recertification Committee**  
Baniel has option to be member of certain committees on recertification.
20. **No Admission of Liability**  
Neither party admits any liability or wrongdoing. Guild shall issue statement that Litigation has been settled and urge members to comply with non-disparagement provisions of this agreement.
21. **Confidentiality**  
Documents related to litigation confidential, except summary judgment motions & this agreement.
22. **Non-Disparagement**  
Both parties agree not to disparage or attempt to damage reputation of the other.
23. **Other Litigation**  
Parties agree to dismiss any other claim relating to the subject matter of this lawsuit
24. **Entire Agreement**  
This is entire agreement. Any alteration must be in writing and signed by both parties.
25. **Enforcement**  
Parties agree to mediation and binding arbitration of disputes.
26. **Independent Counsel**  
Both parties executed this agreement on advice of independent legal counsel.
27. **Choice of Law**  
Agreement governed by Lanham Act and laws of Illinois.
28. **Counterparts**  
Agreement may be executed in parts. Each party will give other originally executed copies.

**Exhibit A**

- Accreditation Process-
- Follows current process for accreditation with standing protocol. Standing protocol fee (\$500) is waived, and processing fee (\$100) is waived.
- Guidelines For Trainings Accredited Under Settlement Agreement
- Maximum number of enrolled participants is 100.
- Educational Director and all Trainers and Assistant Trainers are TAB certified. (Certified practitioner teachers are also allowed, as described in Agreement.)
- Educational Director's responsibilities are described- similar to existing policy

## Settlement and Release Agreement

This Settlement Agreement and Mutual Release (this "Agreement") is made as of the 15<sup>th</sup> day of October 2000 by and among Anat Baniel, any entities affiliated with Anat Baniel, including but not limited to Movement Coordination Learning, Inc., The Feldenkrais Guild, and the Feldenkrais Guild of North America. Anat Baniel and any entities affiliated with Anat Baniel are collectively referred to in this Agreement as "Baniel." The Feldenkrais Guild and the Feldenkrais Guild of North America are collectively referred to in this Agreement as the "Guild."

On June 10, 1998, Baniel filed a Complaint for Declaratory Judgment and Cancellation of Trademark Registrations in the United States District Court for the Northern District of Illinois, Eastern Division, captioned *Anat Baniel v. The Feldenkrais Guild*, No. 98 C 3602. That complaint was eventually dismissed without prejudice. On November 3, 1999, Baniel filed a Complaint for Declaratory Judgment and Cancellation of Trademark Registrations in the United States District Court for the Northern District of Illinois, Eastern Division, captioned *Anat Baniel v. The Feldenkrais Guild*, No. 99 C 7183. Both Baniel complaints are collectively referred to in this Agreement as the "Litigation."

As a result of settlement discussions between Baniel and the Guild, Baniel and the Guild have agreed to dismiss the Litigation with prejudice pursuant to the terms of this Agreement. Baniel and the Guild acknowledge that all claims that were or could have been asserted on behalf of one against the other arising out of or related to the Litigation have been settled and are forever barred. Finally, Baniel and the Guild acknowledge that by entering into this Agreement, neither party admits to any liability or any wrongdoing as alleged in the Litigation or otherwise.

THEREFORE, in consideration of the foregoing, Baniel and the Guild each agree to the terms set forth below:

1. Scope of this Agreement. This Agreement is only between Baniel and the Guild. The Guild retains the right to apply any of the provisions of this Agreement or provisions in Exhibit A (attached hereto and incorporated by reference) to its other members or certified trainers, assistant trainers, or practitioners, to the extent that any are not inconsistent with the provisions herein. Baniel will remain subject to the requirements set forth in Exhibit A and the Guild's other rules and procedures to the extent not inconsistent with the provisions herein. If the Guild adopts changes to its hour requirements for certification, its percentage teaching requirement, as discussed in Paragraph 9, the required number of trainers or assistant trainers, or its reporting requirements, Baniel shall have the option of using either the new requirements or the requirements set forth in this Agreement.

2. Dismissal of the Complaint. Baniel and the Guild agree to dismiss the Litigation with prejudice. Baniel and the Guild shall bear their own costs and attorney fees incurred in or arising out of the Litigation. The Guild, however, shall pay

all fees owed to JAMS for the October 15 and 16, 2000 mediation of this Litigation, including reading time and expenses.

3. Certification of Trademark Validity and Cooperation. Baniel acknowledges that the Guild is the owner of the following service, certification and collective marks and that the Guild's federal registrations of them are currently outstanding, valid, and enforceable:

FELDENKRAIS	Reg. No. 1,374,266
FELDENKRAIS METHOD	Reg. No. 1,982,044
AWARENESS THROUGH MOVEMENT	Reg. No. 1,353,317
FUNCTIONAL INTEGRATION	Reg. No. 1,286,531
GUILD CERTIFIED FELDENKRAIS TEACHER	Reg. No. 2,187,073
THE FELDENKRAIS GUILD	Reg. No. 1,337,397
FELDENKRAIS METHOD DESIGN	Reg. No. 2,023,214
FELDENKRAIS METHOD AND DESIGN	Reg. No. 2,023,215

Baniel also acknowledges that the Guild is the owner of the following unregistered certification and service marks:

GUILD CERTIFIED FELDENKRAIS PRACTITIONER (CM)  
FRIENDS OF FELDENKRAIS (SM)

and that these marks are valid and enforceable. Baniel also acknowledges that the Guild is and shall be the owner of a valid and enforceable certification mark in the term:

FELDENKRAIS AWARENESS THROUGH MOVEMENT TEACHER

All of the marks identified above are collectively referred to in this Agreement as the "Marks."

4. Release of the Guild by Baniel. In consideration of the Guild's dismissal with prejudice of its counterclaim in the Litigation, the provisions of this Agreement, and for other good and valuable consideration given by the Guild to Baniel, the receipt and sufficiency of which are hereby acknowledged, Baniel hereby fully releases and forever discharges the Guild, as well as its predecessors, successors, subsidiaries, divisions, assigns, shareholders, members, partners, directors, officers, employees, agents, and attorneys from and against any and all causes of action or claims of any kind or nature whatsoever, which Baniel now has or ever has had, whether known or unknown at this time, against the Guild arising out of or based upon, whether directly or indirectly, the Guild's registration or use of the Marks, or any act, omission, or event which occurred prior to the date of this Agreement, including but not limited to all claims and demands asserted or which could have been asserted in the Litigation. In addition, without limiting the generality of the foregoing, Baniel also releases and forever relinquishes and agrees not to assert any future claims or defenses that the Marks are or have become invalid or unenforceable.

5. Release of Baniel by the Guild. In consideration of Baniel's dismissal with prejudice of the Litigation, the provisions of this Agreement, and for other good and valuable consideration given by Baniel, the receipt and sufficiency of which are hereby acknowledged, the Guild hereby fully releases and forever discharges Baniel as well as her heirs, executors, predecessors, successors, subsidiaries, divisions, assigns, shareholders, partners, directors, officers, employees, agents, and attorneys from and against any and all causes of action or claims of any kind or nature whatsoever, which the

Guild now has or ever has had, whether known or unknown at this time, against Baniel arising out of or based upon, whether directly or indirectly, her use of the Marks, or any act, omission, or event which occurred prior to the date of this Agreement, including but not limited to all claims and demands asserted or which could have been asserted in the Litigation.

6. Fees Owed. The Guild acknowledges receipt of Ms. Baniel's previously owed \$5,216.67 in fees to the Guild. The Guild further acknowledges that it will return to Ms. Baniel the \$1850 fee she paid to JAMS for the mediation upon signing this Agreement.

7. Baniel's Rights to Use the Marks. Baniel has all rights possessed by other Feldenkrais practitioners to use any and all of the Guild's Marks provided she abides by the Guild's Code of Professional Conduct and Standards of Practice, the provisions of the Guild accreditation standards relating to practitioner / professional training programs, and the provisions of the Guild policies regulating the use of the Marks to the extent the foregoing are not inconsistent with the terms of this Agreement. If Baniel does not abide by the foregoing, she shall not have the rights to use the Marks. Apart from the Guild's fees for accredited professional trainings, Baniel shall not be charged a separate licensing fee for using the Marks in publications, videotapes and audiotapes, presentations, seminars or speeches.

8. The Guild will accredit any Baniel program named "Anat Baniel Method of FELDENKRAIS® Professional Training" or "Anat Baniel Method of FELDENKRAIS® Training," provided that: (a) such program complies with the requirements and provisions described in this Agreement and with all aspects of Guild accreditation policy not inconsistent with this Agreement; and (b) such program begins after Guild accreditation. Students enrolled in Baniel Method trainings at the time of this Agreement may apply up to 60 hours of attendance in those trainings toward a Guild-accredited Baniel training, for any hours which were conducted in accordance with the provisions described in this Agreement.

9. Any written or electronic material in which any "Anat Baniel Method of FELDENKRAIS Professional Training" or any "Anat Baniel Method of FELDENKRAIS Training" is referred to must include a legible statement on the first page on which such training is referred to that:

"This training is accredited by the FELDENKRAIS GUILD® of North America as a training in the FELDENKRAIS METHOD® of somatic education. FELDENKRAIS and FELDENKRAIS METHOD are service marks of The FELDENKRAIS GUILD®"(or the current owner of these service marks, in the event that ownership is transferred).

The foregoing statement may also include an additional statement of the same size that "Anat Baniel Method" is a service mark of Anat Baniel.

10. When used in connection with any training program accredited or to be accredited by the Guild, the phrase “Anat Baniel Method” or “Baniel Method” may be used only in the phrase “Anat Baniel Method of FELDENKRAIS® Professional Training” or the phrase “Anat Baniel Method of FELDENKRAIS® Training.” When the phrase “Anat Baniel Method of FELDENKRAIS® Professional Training” or the phrase “Anat Baniel Method of FELDENKRAIS® Training” is used, the word ‘FELDENKRAIS’ must: (a) appear in all capital letters and have a trademark registration symbol (®) affixed to it; (b) be in type size at least as large as the words “Anat Baniel Method of”, and (c) be distinctive from and at least as prominent as the words “Anat Baniel Method of” and “Professional Training” and “Training.”

11. The Guild acknowledges that Anat Baniel is the owner of the terms “Anat Baniel” and “Anat Baniel Method” and derivatives thereof that do not include any of the Guild’s Marks, and will neither claim ownership of nor ever try to restrict Baniel’s rights to use the terms “Anat Baniel” and “Anat Baniel Method” or derivatives thereof that do not include any of the Guild’s Marks. In conjunction with using the term “Anat Baniel Method” Baniel will take reasonable steps required to prevent any potential confusion with respect to the Guild and its Marks.

12.. Training and Enrollment. Baniel’s training programs involving Guild Accreditation shall involve 2 stages. The first stage shall consist of at least 540 hours over at least 26 months. The second stage shall consist of at least an additional 200 hours over at least an additional 8 months. Baniel students shall have available to them the same rights and benefits as all other students in Guild accredited training programs upon undertaking the same obligations as all other students in order to use any of the Guild’s Marks. Baniel students shall be allowed to advertise themselves as “student teachers” of “Awareness Through Movement” after 400 hours of training, provided that they follow the Guild’s guidelines and requirements, including having paid all Guild membership or license fees required of other “student teachers” of “Awareness Through Movement.” Baniel students will be able to refer to themselves as “Feldenkrais Awareness Through Movement Teachers,” which shall be a service mark owned by the Guild, but are not otherwise authorized to refer to themselves either as “Feldenkrais teachers,” “Feldenkrais practitioners,” or “practitioners,” when they have completed stage one’s 540 hours of training. These “Feldenkrais Awareness Through Movement Teachers” cannot practice FUNCTIONAL INTEGRATION (“FI”) or use the FI mark before completing stage two’s additional 200 hours of training with Baniel or completing other Guild accredited training that authorizes practitioners to practice FI. In any advertising or other promotional materials, including but not limited to internet web sites, as well as in contracts with students relating to her training programs, Baniel must disclose clearly that her Guild accredited trainings involve two stages, the number of hours and months necessary to complete each stage, and that graduates of stage one will be authorized and be able to refer to themselves only as “Feldenkrais Awareness Through Movement Teachers” and that only after completion of stage two’s additional 200 hours of training with Baniel or completing other Guild accredited training that authorizes practitioners to practice FI will graduates be authorized to call themselves Feldenkrais Practitioners or Teachers or to use the term Functional Integration. Baniel shall not link any web pages promoting any professional training not accredited by the Guild to any web pages or materials containing Guild Marks, or vice-versa.

13. Training Staff Hours and Composition. Baniel shall teach a maximum of 78% and a minimum of 35% of the stage one 540 hours of training, and a maximum of 100% and a minimum of 35% of the remaining 200 hours. In the 540-hour training, the remaining 22% (120 hours) will be taught by at least 2 additional Guild certified trainers each teaching for approximately 60 hours. Each Baniel training will involve one Guild certified trainer present at all times and additional trainers or assistants as follows. The teacher to student ratio shall be 1:20. At 21 students an additional Guild certified practitioner of Baniel's choice shall be added. At 41 students, there will be an additional Guild certified trainer or Guild certified assistant trainer present. At 61 students an additional Guild certified practitioner teacher of Baniel's choice shall be added. At 81 students, there will be an additional Guild certified trainer or Guild certified assistant trainer present.

14. Review of Baniel Protocol is Waived. Baniel's "Chicago 3 Training" proposal shall be accepted as a standing protocol for Baniel's Guild accredited trainings. The review of Baniel's standing protocol and curriculum and \$500 review fee are waived.

15. Baniel Reporting Requirements.

Training data (as per Exhibit A page 1 paragraph 4) is submitted with the accreditation request. Baniel's reporting requirements as described below and in Exhibit A with respect to her Guild accredited training programs are due no more than once per calendar year provided that Baniel shall provide a list of students within thirty (30) days of the beginning of the training and updated information on changes in enrollment within thirty (30) days of the change. Baniel's accreditation fees shall be due at the beginning date of each block of training hours (i.e., at the beginning of the training, at 200, 400 and 540 hours), and must be paid within 60 days of each such date. All outstanding accreditation fees must be paid before graduation from stage one and stage two respectively. Baniel's accreditation fee for the last 140 hours of stage one training is prorated at the rate of 7/10 of the accreditation fees that would be due for 200 training hours.

16. Guild Contracts with Baniel Students. Baniel's students shall have the option of deciding whether they wish to be members of the Guild and may enter into agreements with the Guild to use the Guild's certification and service marks. Baniel agrees that upon the Guild's request, she will make available to her students materials provided by the Guild, including but not limited to prospective contracts between the Guild and such students or other materials relating to membership in the Guild, usage of the Marks, listing in the Guild database, and/or payment of the Guild's fees. Baniel shall not be a party to contracts between her students and the Guild, and Baniel has no responsibility as to the preparation, execution or enforcement of such contracts. Such students shall pay membership and service mark usage fees directly to the Guild. Baniel shall have no responsibility to collect or pay such fees.

17. Baniel's Contract with Baniel Students. Baniel shall enter into a written agreement with Baniel students which shall disclose the students' rights and obligations under paragraphs 7 and 16 of this Agreement. Accordingly, Baniel's contract

shall contain a provision drafted by the Guild stating that the Guild owns the Marks and the Marks cannot be used without the Guild's authorization and are subject to whatever requirements the Guild may impose.

18. Non Discrimination. The Guild shall not discriminate against Baniel or Baniel students in any matter including but not limited to use of the Marks, assessment of fees for use of the Marks, admission, graduation or acquisition of any teaching materials, certification, fees, and disciplinary proceedings. Guild certified practitioners working in Baniel's trainings will have their hours count toward their becoming Guild certified assistant trainers or trainers as per Guild guidelines for all other trainings.

19. Recertification Committee. Baniel shall have the option to be a member of any future Guild committee on recertification if the Guild proposes to add a professional competence component or to change any material criteria for recertification.

20. No Admission of Liability. Neither this Agreement nor any proceedings in connection with this Agreement are or shall in any way be construed or invoked as an admission of any liability, wrongdoing by Baniel or the Guild, or of any of the allegations made in the Litigation. The Guild shall issue a statement that the Litigation has been settled and urge its members to follow the non-disparagement provision set forth in Paragraph 22 of this Agreement.

21. Confidentiality. Baniel and the Guild agree that they and their respective attorneys, other agents, and employees will keep confidential all documents filed with the Court in the Litigation and all files in their possession or in the possession of their attorneys, other agents, or employees relating to the Litigation. Accordingly, neither Baniel nor the Guild may voluntarily reveal or share or cause their attorneys or other employees or agents to reveal or share any documents or other files relating to the Litigation with any other person or entity nor voluntarily assist any entity making any claims or defenses against or relating to the Guild's Marks. Notwithstanding the foregoing: (a) the parties may disclose to any person the summary judgment motions and summary judgment briefs (but not exhibits thereto) filed with the Court and of public record; (b) Nothing contained in this paragraph shall prevent either of the parties from using any documents or any information in any future litigation, mediation or arbitration to which that party is a party.

This Agreement itself is not subject to the confidentiality provisions above, and may be discussed and distributed by the parties.

22. Non-Disparagement. Baniel and the Guild promise and agree that neither will at any time, either orally, in writing, or through any other medium, disparage, defame, impugn, or otherwise attempt to damage or assail the reputation, integrity, or professionalism of the other party, including their respective predecessors, successors, subsidiaries, divisions, assigns, shareholders, members, and partners and their respective directors, officers, employees, and agents. Accordingly, any violation of this Paragraph 18 is likely to cause irreparable harm and the parties agree to immediate mediation and then arbitration of such alleged violation, and that the arbitrator may enter a decision to enjoin any such violation.

23. Other Litigation. Other than the Litigation that is the subject of this Agreement, Baniel and the Guild warrant and represent to one another that they have not filed any other claim in any court, arbitration, or other forum between or among Baniel and the Guild. In the event that such claims do exist, the parties filing them agree to withdraw and dismiss such claims with prejudice.

24. Entire Agreement. This Agreement constitutes and contains the entire agreement concerning the subject matter hereof between Baniel and the Guild and supersedes all prior negotiations and oral agreements. No alteration or amendment of this Agreement shall be of any force or effect unless it is in writing, explicitly stating that it is an alteration or amendment of this Agreement, and signed by Baniel and the Guild.

25. Enforcement of this Agreement. Baniel and the Guild agree to first mediate, then submit to binding arbitration, using JAMS and mutually agreed upon provisions and terms any disputes that arise under this Agreement. Moreover, Baniel and the Guild agree to mediate and then arbitrate using JAMS under mutually agreed upon provisions and terms any other dispute that arises between Baniel and the Guild relating to any attempt to decertify Baniel as a trainer or practitioner or any grievance against Baniel under the Guild's provisions, and have the option to mediate first if both sides agree to mediate. If Baniel and the Guild cannot agree on arbitration provisions the JAMS Streamlined Arbitration Rules shall apply. Prior to mediation and arbitration, either party which believes that the other has violated this agreement must give written notice to the other party and provide a thirty day right to cure such violation before demanding mediation or arbitration. With respect to paragraph 22, the cure period is reduced to seven days.

26. Independent Counsel. Baniel and the Guild each acknowledge that they have been represented by independent legal counsel of their own choosing throughout all of the negotiations which preceded the execution of this Agreement and each has executed this Agreement with the consent and on the advice of their respective independent counsel.

27. Choice of Law. This Agreement shall be construed in accordance with and be governed by the laws of the State of Illinois without regard to any choice of law rules or doctrines. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against either Baniel or the Guild.

28. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Each party signing by facsimile signature covenants that he or it will within five business days thereafter furnish each of the other parties with originally executed copies of this Agreement.

IN WITNESS WHEREOF, Baniel and the Guild have executed this Agreement as of the day and year first written above.

ANAT BANIEL, and Entities  
Affiliated with Her

THE FELDENKRAIS GUILD and THE  
FELDENKRAIS GUILD OF NORTH  
AMERICA

By: \_\_\_\_\_

By: \_\_\_\_\_  
their President