

SETTLEMENT AGREEMENT

1. This Settlement Agreement (hereinafter "Agreement") is entered into by and between the National Aeronautic and Space Administration, Ames Research Center (hereinafter "Agency" or "NASA") and XXXXXX (hereinafter "Ms. X"), to make full and final Settlement of all matters arising from Ms. X's Equal Employment Opportunity complaint against the Agency

2. In order to resolve the matters in dispute without further administrative processes, litigation, expense, and delay, Ms. X and the Agency agree as follows:

a) Ms. X will be placed in an administrative leave status beginning October 6, 2002 to continue until disability retirement is approved and a start date for receiving benefits is provided by the Office of Personnel Management (OPM). Administrative leave status shall continue until Ms. X receives her first disability retirement payment. It is understood that Ms. X is not entitled to administrative leave for any period she receives disability retirement payments. In the event that Ms. X receives overlapping disability retirement payments while on administrative leave, she will reimburse NASA for those payments received while on administrative leave. Ms. X agrees to provide and complete all paperwork for such retirement including any required medical documentation needed to complete the disability package within thirty (30) days of the date this Settlement Agreement becomes binding and enforceable.

b) The Agency agrees to cooperate fully and expedite its processing of Ms. X's disability retirement application package to OPM. The Agency agrees to affirm to OPM on its portions of the disability retirement forms and any accompanying documentation that it cannot reasonably accommodate Ms. X's disability.

c) Ms. X will retire from the Federal service effective the date on which her disability retirement commences.

d) Both parties understand and agree that only OPM, and other federal authorities such as the Merit Systems Protection Board (MSPB) and the federal courts, have final authority to determine disability retirement entitlement and terms (such as annuity amounts) for Federal civil service employees such as Ms. X. The Agency anticipates no difficulty in securing approval of Ms. X's disability retirement application, but the Agency cannot guarantee such approval. If Ms. X's disability retirement application is approved by OPM and/or MSPB and/or any federal court, the Agency shall at that time separate Ms. X for disability with the notation "disability retirement". If, for any reason, it is finally determined by OPM or other higher legal authority, that Ms. X is not eligible for disability retirement benefits as envisioned in this Settlement Agreement, and the time for any legal challenge to such a determination expires without the timely filing of such a challenge, the parties agree that all provisions of this Agreement aside from this paragraph will be null and void, and that this complaint will be reinstated for further processing from the point at which processing ceased, in accordance with the procedures set forth in 29 C.F.R. §1614.504.

e) The Agency agrees to pay Ms. X a lump sum payment of one hundred forty thousand dollars (\$140,000.00). Fifty thousand dollars (\$50,000.00) of this lump sum payment is compensation for Ms. X's past medical expenses, and ninety thousand dollars (\$90,000.00) of this lump sum payment is compensation for Ms. X's medical condition. The Agency agrees to pay Ms. X the lump sum payment of \$140,000.00 in two installments as follows. Within thirty (30) days of the date this Settlement Agreement becomes binding and enforceable, the Agency agrees to pay Ms. X forty thousand dollars (\$40,000.00). Ms. X agrees to retain the \$40,000.00 in an interest bearing account until her disability retirement application is approved. If for any reason, it is finally determined, by OPM or higher legal authority, that Ms. X is not eligible for disability retirement as envisioned in this Settlement Agreement, Ms. X agrees that she will return the \$40,000.00 plus any accrued interest to NASA Ames Research Center within thirty (30) days of the final denial of her application for disability retirement. Within thirty (30) days of approval of Ms. X's disability retirement application, the Agency agrees to pay Ms. X the remainder of the lump sum payment, which is one hundred thousand dollars (\$100,000.00). All payments will be made payable to Ms. X. Ms. X understands that this entire amount will be reported to the Internal Revenue Service (IRS) on a form 1099, and that the questions of tax liability, if any, as a result of such payment is a matter to be resolved solely between Ms. X and the IRS. The Agency agrees that it will not make any withholdings from the lump sum payments.

f) Within thirty (30) days of approval of Ms. X's disability retirement application, the Agency agrees to pay attorney fees of \$50,000.00, and to pay costs not to exceed five hundred dollars (\$500.00) according to proof, to YYYYYY, Attorney at

Law, ZZZZZ, No. ZZZ, ZZ City, California 94ZZZ. Both parties agree that these payments constitute full and final resolution of attorney fees and costs in connection with the matters in dispute. All said payments for attorney fees and costs will be made payable to YYYY. The Agency waives any claim against Ms. X for reimbursement of attorney fees and costs in connection with the matters in dispute.

g) Within thirty days (30) of approval of Ms. X's disability retirement application, the Agency shall remove all materials that the parties agree to be derogatory from the personnel files it maintains regarding Ms. X: her Official Personnel File (OPF), her employee performance file (EPF), and her medical file. Upon request, Ms. X shall be entitled to review the named files. Upon completion of her review, Ms. X will advise the Agency of materials that she believes are derogatory and should be removed. Within thirty (30) days thereafter, the Agency shall remove the materials Ms. X identified as derogatory if the Agency agrees with Ms. X that they are in fact derogatory. Should the Agency not agree, the parties reserve the right to seek enforcement of this aspect of the Settlement Agreement pursuant to Paragraph 15 of this Agreement. The Agency in any event agrees to remove any and all information it deems to be derogatory in any and all of the above-referenced files that might have an adverse effect on the determination of Ms. X's disability retirement application prior to the Agency's forwarding these files to OPM.

h) The Agency agrees to waive monetary reimbursement of all debt Ms. X accrued from use of advanced (unearned) sick leave.

i) By executing this Agreement, Ms. X agrees to withdraw her complaint, EEOC No. AAAAAA (NASA Agency No. BBBB BBB), two grievances and any and all other pending complaints involving her employment with NASA. In addition, she also waives any and all rights to file complaints with, or appeals to, the Equal Employment Opportunity Commission, the Merit Systems Protection Board, the negotiated grievance process, or other administrative fora, and civil litigation arising out of matters or events prior to the execution of this Agreement, except as otherwise provided in this Agreement.

3. Notwithstanding any provision of this Settlement Agreement, this Agreement does not constitute an admission of liability or fault on the part of NASA or its officers or employees.

4. This Agreement may be used as evidence in a subsequent proceeding in which either of the parties alleges a material breach of this Agreement.

5. The parties agree that in Settlement of this matter and in the best interests of both parties, the parties and their representatives, including but not limited to, the undersigned, their attorneys, agents, and designees, will not disclose, discuss, release, comment upon, provide, or reveal any information relating to the terms or conditions of Settlement, negotiation, proceedings, or conditions of resolution or disagreement, except to immediate family members and as otherwise required by law or court order or as necessary to implement the terms of this Agreement.

6. Ms. X is hereby notified that she has at least twenty-one (21) days from the date of receipt of this Agreement to review the terms and conditions of this Agreement, if she so requires.

7. Ms. X is hereby advised to consult with an attorney prior to executing this Agreement. Ms. X acknowledges that her attorney has reviewed and explained the provisions of this Agreement to her and that the Agency has provided sufficient time for this purpose.

8. By executing this Agreement, Ms. X acknowledges that she has knowingly and voluntarily waived rights or claims under the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621, et seq., in exchange for consideration in addition to anything of value to which Ms. X is already entitled.

9. By executing this Agreement, Ms. X acknowledges that she has entered into this Agreement voluntarily and that the Agency has not imposed any undue hardship, duress, or coercion in connection with the execution of this document.

10. Ms. X is hereby notified that the terms and conditions of this Agreement will become binding and enforceable at the expiration of seven (7) calendar days following the latest signature date of this Agreement. Ms. X may revoke this Agreement in writing at any time prior to the expiration of this seven (7) day period.

11. This Agreement represents and expresses the entire Agreement between NASA and Ms. X resolving the matter of her complaints and fully supersedes any and all prior Agreements or understandings between the parties pertaining to the subject matter hereof. If other promises, oral or written, have been made, they are not binding. This document cannot be altered, modified, withdrawn, rescinded, or supplemented in any manner after the date on which it becomes effective pursuant to the terms contained in Paragraph 10 of this Agreement, unless mutually agreed in writing by all parties.

12. This Agreement shall be binding upon Ms. X, as well as her heirs, assigns, representatives, proxies, guardians, or any other person or entity acting on behalf of, or at the behest of, her heirs, assigns, representatives, proxies, or guardians.

13. Ms. X expressly agrees not to use this Agreement and not to permit any other person to use this Agreement in any judicial or administrative proceeding as evidence of, or to attempt to prove the existence of, discrimination/reprisal or other adverse action or prohibited personnel practice.

14. Each of the respective rights and obligations of the parties hereunder shall be deemed independent and may be enforced independently, irrespective of any other rights and obligations set forth herein.

15. If Ms. X believes that NASA has not complied with the terms of this Agreement, she may request that the terms be specifically implemented, or alternatively, that the complaint be reinstated for further processing at the point processing closed, in accordance with the procedures set forth in 29 C.F.R. § 1614.504. Any such request must be made within thirty (30) calendar days of the date she knew or should have known of the noncompliance and must be forwarded to the ASSOCIATE ADMINISTRATOR FOR EQUAL OPPORTUNITY PROGRAMS, CODE B, NASA HEADQUARTERS, WASHINGTON, D.C. 20546, with an explanation as to why she believes that the Agreement has not been carried out.

16. This Settlement Agreement will be submitted by the parties to the San Francisco Office of the Equal Employment Opportunity Commission to be entered into the record of Ms. X's case file, EEOC No. AAAAAA, for purposes of enforcement.

In witness whereof, the parties hereto hereby execute this Agreement, acknowledging that its terms and conditions have been fully understood, that an adequate period of time has been afforded to allow consideration of said terms and conditions, and that they have consulted with legal counsel before signing this Agreement.

Mrs. XXXXX

Date

YYYYYYYYY, Attorney

Date

CCCCCC
Director of Astrobiology and Space Research (Acting)

Date

DDDDDD, Attorney Advisor

Date