

SETTLEMENT DOCUMENTS

PILLSBURY-FOSTER V. FRANKLIN

and

PILLSBURY-FOSTER V. FRANKLIN, ET AL.

In re Marriage of A. Craig Franklin v. Melinda Pillsbury-Foster
(Superior Court for the County of Santa Barbara, Case No. 222675)

Pillsbury-Foster v. Franklin, et al.
(Superior Court for the County of Santa Barbara, Case No. 233136)

Pillsbury-Foster v. Green Hills Software
(Court of Appeals, Second Appellate District, No. B143568)

Pillsbury-Foster v. Franklin, et al.
(Court of Appeals, Second Appellate District, No. B145793)

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DOCUMENT INDEX

<u>Document Name</u>	<u>Tab</u>
Settlement Agreement and Release of Claims.....	1
Promissory Note.....	2
Security Agreement	3
Power of Attorney – Pillsbury-Foster	4
Power of Attorney – Franklin	5
UCC-1 Financing Statement.....	6
Copy of Check No. 1830, Payable to Melinda Pillsbury-Foster (\$240,000).....	7
Copy of Check No. 1831, Payable to Melinda Pillsbury-Foster And Todd A. Porter (\$60,000).....	8
Stipulation and Order for Dismissal of All Claims and Confirmation of Judgment (“Family Law Action”).....	9
Request for Dismissal (“Civil Action”).....	10
Stipulation and Order re: Voluntary Abandonment And Dismissal (“Appeals Actions”).....	11

1

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims (the "Agreement") is made and entered into as of the 30th day of March, 2001 by and among Craig Franklin ("Franklin"), Melinda Pillsbury-Foster ("Foster"), Green Hills Software, Inc., a Delaware corporation ("Green Hills"), and Daniel O'Dowd ("O'Dowd"). All of the foregoing are sometimes collectively referred to as "the Parties."

I.

RECITALS

This Settlement Agreement and Release of Claims is made with reference to the following facts:

1. On or about January 15, 1998, Green Hills granted Franklin an option to purchase up to 600,000 shares of its common stock (the "Franklin Option") at the exercise price of \$1.00 per share, pursuant to its 1996 Employment Agreement Stock Option Plan, and Stockholders Agreement, as modified by an Employment, Stock Option, and Stockholders Agreement dated January 15, 1998 (collectively, the "Plan"), a copy of which is attached as Exhibit A to this Agreement and made a part hereof to the extent stated herein.
2. On August 13, 1999, the Court having jurisdiction over the Family Law Action between Franklin and Foster entitled In re the Marriage of Franklin, Santa Barbara Superior Court No. 222675 (the "Family Law Action") entered a Judgment on Reserved Issues (the "1999 Judgment") in which it found that 284,628 of the Franklin Options were community property of Franklin and Foster. The 1999 Judgment directed that 142,314 of such Options were to be allocated to Foster, but did not provide a method for accomplishing such allocation.
3. Certain disputes and controversies have arisen among the Parties respecting their respective rights in, to and under the Franklin Option, the 1999 Judgment and other options and tort claims which include, but are not limited to the

matters, claims, demands and causes of action and the denials and defenses alleged in the Family Law Action and in the civil action filed on or about October 12, 1999 in the Superior Court of the State of California for the County of Santa Barbara entitled Foster v. Franklin and O'Dowd, et al., Case No. 233136 (the "Civil Action") and the appeals pending from certain orders entered in both of such actions.

4. Each party has denied and continues to deny any liability to any other party.

5. It is the intention of the Parties by entering into this Settlement Agreement and Release of Claims to settle and dispose of, fully and completely, any and all claims, demands and causes of action among them heretofore or hereafter arising out of, related to, connected with, or incidental to the Civil Action, the Family Law Action (with the exception of any past or present spousal support or child support obligations and child custody and visitation rights), and to settle all of Foster and Franklin's property rights in community property, including but not limited to all claims relating to the Franklin Options, and to release all claims except as expressly stated herein. Without limiting the generality of the foregoing, this Agreement is intended to carry out the terms of the 1999 Judgment by providing the terms and conditions whereby the allocation directed by the 1999 Judgment may be carried out, Foster may be recognized by Green Hills as having certain rights in the 142,314 Franklin Options directed to be allocated to her by the 1999 Judgment (such 142,314 Options being referred to herein as the "Franklin B Options"), and Franklin's obligations may be discharged with respect thereto without transferring the Franklin B Options and without causing a "taxable event" for federal or state income tax purposes.

II.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into the operative provisions of this Settlement Agreement, the covenants and other terms and conditions contained herein, the Release of Claims and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties do

hereby agree as follows:

A. DISMISSAL OF PENDING LITIGATION.

1. Dismissal of Civil Action. Concurrently with the execution and delivery of this Agreement, the Parties shall cause their counsel to execute and file a Request for Dismissal with Prejudice of the entire Civil Action with each party to bear its own attorneys' fees and costs.

2. Dismissal of Family Law Action. Foster and Franklin shall cause their counsel to execute and deliver a stipulation dismissing all pending claims in the Family Law Action with prejudice, confirming the 1999 Judgment, and reserving only the Court's jurisdiction over spousal support, child custody, visitation and support.

3. Dismissal of Appeals. Each Party which has filed a Notice of Appeal shall cause their counsel to execute and file a request to dismissal of its appeal with prejudice.

B. FOSTER'S RIGHTS, DUTIES AND OBLIGATIONS.

1. General Release of Green Hills Parties; Partial Release of Franklin.

(a) Except as expressly provided herein, Foster on her own behalf and on behalf of any of her heirs, partners, representatives, assigns and attorneys hereby releases Green Hills and O'Dowd and each of their present and former affiliates and related entities, agents, assigns, attorneys, directors, employees, officers, parents and subsidiaries, predecessors, principals, representatives, servants, shareholders and successors, other than Franklin (collectively, the "Foster Released Parties") from any and all claims, demands, causes of action or other legal liabilities of any kind which Foster may now or hereafter have of any nature, whether known or unknown, against the Foster Released Parties, or any of them, for any matter, cause or thing whatsoever from the beginning of time to the date hereof. This release includes, but is not limited to, any and all claims, demands, causes of action or other legal liabilities arising out of, related to, or in any way connected with: (i) the Civil Action; (ii) the Family Law Action, (iii) the Plan, and (iv) all stock option plans adopted by Green

Hills, or its predecessors, subsidiaries and affiliates, and all documents, instruments and agreements executed pursuant thereto, but excludes claims, demands, causes of action or legal liability that results from the specific provisions of this Settlement Agreement and Release or the transactions contemplated hereby.

(b) Except as expressly provided herein, Foster on her own behalf and on behalf of any of her heirs, partners, representatives, assigns and attorneys hereby releases Franklin, and his successors and assigns, from any and all claims, demands, causes of action or other legal liabilities of any kind which Foster may now or hereafter have of any nature, whether known or unknown, against Franklin in any matter, cause or thing whatsoever from the beginning of time to date hereof, except for (i) the 1999 Judgment, (ii) claims related to child custody and visitation, (iii) child support, (iv) past due support payments and future support payments which have been ordered or may be ordered in the Family Law Action, and (v) any claims, demands, causes of action or legal liabilities that result from the specific provisions of this Settlement Agreement and Release or the transactions contemplated hereby.

2. Waiver of Civil Code Section 1542. Foster understands that the release of claims set forth herein covers claims which Foster knows and those which Foster may not know about. To that end, Foster expressly waives and relinquishes all rights and benefits under Section 1542 of the California Civil Code which provides:

"A General Release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

For purposes of this Waiver the terms "creditor," "his" and "him" as used in the above-quoted language of the California Civil Code, Section 1542, are understood to refer to Foster, and the term "debtor" is understood to refer to the Foster Released Parties, and

each of them, and to Franklin, to the extent provided in Section 2(b), above.

3. No Further Claims. Foster will not file, nor permit to be filed on or for her benefit, nor will she assist in the prosecution of any claim, grievance, charge, complaint, lawsuit or legal action, or other process of any kind or nature whatsoever with any court, agency, board, panel, department, organization or other entity concerning any fact, matter, incident, claim, event, circumstance, happening or occurrence of any nature whatsoever which is released pursuant to this Agreement.

(a) If any court, agency, board, panel, department, organization or other entity assumes jurisdiction of matter asserted against the Foster Released Parties which was settled or released pursuant to this Agreement, Foster will request such court, agency, board, panel, department, organization or other entity to withdraw from or dismiss the matter with prejudice.

(b) Foster represents and warrants that she has not transferred, pledged or assigned to any other person or entity any of the claims, demands, causes of action or other legal liabilities which are released hereunder.

(c) If Foster breaches any of her covenants contained in this Agreement, in addition to any of the remedies provided herein, or provided by applicable law, Foster will pay all costs incurred by any of the Released Parties, including reasonable attorneys' fees and costs including expert witness fees, in defending such claims, demands, causes of action or other legal liabilities in enforcing the terms of this Settlement Agreement and Release, including but not limited to Section D.4. hereof.

4. Requesting Exercise of Options. Foster may request the exercise of any or all of the Franklin B Options (as defined and specified in ¶D.1. below) by providing an appropriate written notice to Green Hills, as attorney-in-fact for Franklin and complying with each of the following: (a) provide Green Hills with immediately accessible funds, in the form of a cashier's check, or makes arrangements reasonably satisfactory to Green Hills whereby such funds may be provided (by way of example only, through the contemporaneous exercise of some or all Franklin B Options and the

sale of the underlying shares) sufficient to pay (i) the exercise price of One Dollar (\$1.00) per share for each Option exercised and (ii) all amounts required to pay any taxes that may be due from either Franklin or Foster as the result of the exercise of such Franklin B Options in accordance with the provisions of Part D of this Agreement, and (b) provides to Green Hills any information and/or executed documents that Green Hills may reasonably require in order to comply with the requirements of applicable laws, regulations, or agreements relating to sales of shares, including but not limited to (iii) a Certificate as to certain matters in the form used by Green Hills in connection with the Plan at the time that any Franklin B Options are exercised, and a certificate of taxpayer identification number, (iv) such other documents as are required by the Plan, and (v) information regarding all arrangements she has made for the sale of shares acquired through the exercise of the Franklin B Options through brokers or otherwise.

5. Cancellation of Options. Foster acknowledges that if she borrows sums from Green Hills, as provided in Section D.4, below, then Green Hills will have the right to cancel some or all of the Franklin B Options in order to satisfy the amounts due under the outstanding loans and applicable taxes due from either Franklin or Foster, to the extent provided in Section D.4 of this Agreement. Foster will take no action to exercise any Franklin B Options so long as any of the loans made pursuant to such Section D.4 are outstanding (unless such exercise is contemporaneous with a sale of the underlying shares in a sufficient amount to satisfy the requirements of ¶B.4 and to repay any outstanding loans made pursuant to ¶D.4, below), without the written consent of Green Hills.

6. Limited Power of Attorney. Foster will execute and deliver to Green Hills a limited power of attorney, substantially in the form annexed hereto as Exhibit B, which is incorporated herein by reference with full power of substitution, irrevocably appointing Green Hills as her attorney-in-fact to act in her name with respect to surrender of her rights in the Franklin B Options to Green Hills pursuant to the loan provisions set forth in Section D.4 pursuant to the terms of this Agreement.

7. Binding Effect of Plan Documents. Foster agrees to be bound by all of the terms and conditions of the Plan and all applicable agreements heretofore

entered into by Franklin and Green Hills pursuant thereto, as though she were a Grantee thereunder, except that the following provisions of the Plan shall not be applicable to her: Section 9, Subsections (a) and (b), Section 10, Subsections (b), (c), (e), (f), (g) and (h), Section 11, Section 12, and Section 17(a). Without limiting the generality of the foregoing, Foster specifically acknowledges that the sale of any shares of Green Hills stock acquired through the exercise of Franklin B Options is restricted, under Section 16 of the Plan.

8. No Public Market. Foster acknowledges that the Franklin B Options are highly speculative in nature, that there is no public market for the Franklin B options or for the shares of Green Hills, and that Green Hills has made no commitment or agreement to take any steps by which a public market may develop. Notwithstanding the foregoing, in the event that Green Hills does undertake a public offering of its shares, Foster agrees to cooperate therein, and to be bound by the terms of any rules, policies, agreements or conditions imposed on shareholders or option holders of Green Hills generally, in connection with such a public offering or the trading of Green Hills shares, including but not limited to lock-up periods and restrictions on insider trading.

9. Waiver of Claims to other Options. Notwithstanding any other provision herein, Foster agrees that she has no rights in or claims to any stock options or shares of stock heretofore or hereafter granted, issued or transferred by Green Hills or any other person or entity to Franklin, or held by Franklin, other than the Franklin B Options (to the extent provided in this Agreement), and that all such other Franklin Options may be exercised and otherwise dealt with solely by Green Hills and/or Franklin without regard to Foster or any of the terms and conditions of this Settlement Agreement and Release of Claims.

10. No Shareholder Rights. Foster agrees that Green Hills has no duties or obligations to her of any kind except as expressly provided herein and in the Plan. Foster agrees that she will have no rights to receive the documents or information specified in Section 1602 of the California Corporations Code (and any comparable provisions that may be hereinafter enacted), or any notices sent to

shareholders of Green Hills, unless and until the Franklin B Options are exercised and shares are issued to her pursuant to the exercise of such Franklin B Options.

C. FRANKLIN'S RIGHTS, DUTIES AND OBLIGATIONS.

1. Status of Franklin B Options. Franklin acknowledges that Foster has the rights in the Franklin B Options as provided by the 1999 Judgment entered on August 13, 1999 in the Family Law Action and in this Agreement which implements the 1999 Judgment, that she may exercise those rights in accordance with the terms of this Agreement, and that the Franklin B Options may be surrendered or exercised in the manner prescribed in this Agreement. By such acknowledgment, Franklin does not intend to transfer the Franklin B Options or take any other action which could be deemed to be a taxable event for state or federal tax purposes.

2. Limited Power of Attorney. Franklin will execute, concurrently with the execution of this Agreement, a limited power of attorney substantially in the form attached hereto as Exhibit C and incorporated herein by reference with full power of substitution, appointing Green Hills his attorney-in-fact to execute documents and take actions in his name with respect to the Franklin B Options, with respect to exercise of options, payment of the required exercise price, and with respect to surrender of the Options to Green Hills pursuant to the terms of this Agreement, provided, however, that Foster shall be responsible for all financial obligations incident to the exercise of the Franklin B Options including, but not limited to the payment or provision for the required exercise or strike price and any required withholding or other taxes and the repayment of any outstanding loans made pursuant to Section D.4 below, at Foster's own cost and expense.

3. Special Release of Foster, Green Hills and O'Dowd. Except as expressly provided herein, Franklin, on his own behalf and on behalf of his heirs, partners, representatives, assigns and attorneys hereby releases Foster, Green Hills and O'Dowd and each of their present and former affiliates and related entities, agents, assigns, attorneys, directors, employees, officers, parents and subsidiaries, predecessors, principals, representatives, servants, shareholders and successors,

(collectively, the "Franklin Released Parties") from any and all claims, demands, causes of action or other legal liabilities of any kind arising out of, related to, or in any way connected with: (a) the Civil Action or (b) the Family Law Action, except as to spousal support, child support and child custody and visitation rights.

4. Waiver of Civil Code Section 1542. Franklin understands that the release of claims set forth herein covers claims which Franklin knows and those which Franklin may not know about. To that end, Franklin expressly waives and relinquishes all rights and benefits under Section 1542 of the California Civil Code which provides:

"A General Release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

For purposes of this Waiver the terms "creditor," "his" and "him" as used in the above-quoted language of the California Civil Code, Section 1542, are understood to refer to Franklin, and the term "debtor" is understood to refer to the Franklin Released Parties, and each of them.

5. No Further Claims.

(a) Franklin will not file, nor permit to be filed on or for his benefit, nor will he assist in the prosecution of any claim, grievance, charge, complaint, lawsuit or legal action, or other process of any kind or nature whatsoever with any court, agency, board, panel, department, organization or other entity concerning any fact, matter, incident, claim, event, circumstance, happening or occurrence of any nature whatsoever which is released pursuant to this Agreement.

(b) If any court, agency, board, panel, department, organization or other entity assumes jurisdiction of matter asserted against the Franklin Released

Parties which was released pursuant to Paragraph C.3, Franklin will request such court, agency, board, panel, department, organization or other entity to withdraw from or dismiss the matter with prejudice.

(c) Franklin represents and warrants that he has not transferred or assigned to any other person or entity any of the claims, demands, causes of action or other legal liabilities which have been released pursuant to Paragraph C.3.

(d) If Franklin breaches any of his covenants contained in this Agreement, Franklin will pay all costs incurred by any of the Franklin Released Parties, including reasonable attorneys' fees, in defending such claims, demands, causes of action or other legal liabilities.

(e) Franklin acknowledges that the Superior Court for the County of Santa Barbara will continue to have jurisdiction to adjudicate claims relating to past and future spousal support in the Family Law Action and issues related to child custody, visitation and support, and that nothing in this Agreement constitutes a promise or obligation of Green Hills relating to continuation of his employment or the terms of employment, including but not limited to compensation or issuance of any options or shares of stock to him in the future.

(f) The General Release in Paragraph C.3.b, and the provisions this of Paragraph C.5 shall not release or prevent Franklin from seeking relief from Foster in the Family Law Action or in any other appropriate forum in the event the 1999 Judgment or this Settlement Agreement and Release of Claims is deemed to be a "taxable event" by State or Federal taxing authorities.

D. GREEN HILLS' RIGHTS, DUTIES AND OBLIGATIONS.

1. Allocation of Options. Solely in order to implement the provisions of the 1999 Judgment relating to the division of the community Property interests of Franklin and Foster in the Franklin Options, Green Hills will separately allocate the Franklin Options on its books and records relating to the Stock Option plan. The 457,686 Options heretofore issued to Franklin that were not allocated to Foster under

the 1999 Judgment, and in which Foster has no right, interest or claim will be designated as "A Options," and the 142,314 Franklin B Options that were so allocated will be designated as "B Options." Each Franklin Option has an exercise price of \$1.00 per share. This allocation is not intended to be a transfer of the Franklin B Options and shall not constitute or be deemed to be a taxable event for state or federal tax purposes.

2. Nonforfeiture of Franklin B Options. Green Hills acknowledges that the Franklin B Options are fully vested and are not subject to forfeiture or cancellation in the event that Franklin's employment is terminated or for any other reason, except as provided in this Settlement Agreement and Release or the Plan.

3. Authority to Act. Green Hills acknowledges that it has Irrevocable Power of Attorney to affect the exercise of the Franklin B Options and to take such other actions as may be available to holders of Options under the terms of the Plan, as set forth herein. As such attorney-in-fact, Green Hills agrees to honor notices relating to the Franklin B Options that Foster provides to it as set forth in Section B.4, so long as they are made in accordance with the provisions of the Plan as modified by this Agreement.

4. Loans to Foster: Upon Foster's written request, Green Hills will make loans to Foster in accordance with the following terms and conditions:

(a) Green Hills will lend Foster the sum of three hundred thousand dollars (\$300,000) immediately following the execution of this Settlement Agreement and Release of Claims and the filing of the Requests for Dismissal and Stipulations provided in ¶A, 1-3, inclusive above.

(b) Unless Green Hills is then a reporting company under the Securities Exchange Act of 1934 (a "Reporting Company"), and the sale of its shares underlying the Franklin B Options is not "locked up" or restricted in a manner that would prevent their sale at market value, and provided that Foster is not then in default under any of her obligations under this Agreement, Green Hills will lend Foster the sum of one hundred fifty thousand dollars (\$150,000) one year from the date of this Agreement.

(c) Unless Green Hills is then a Reporting Company and the sale of its shares underlying the Franklin B Options is not “locked up” or restricted in a manner that would prevent their sale at market value, and provided that Foster is not then in default under any of her obligations under this Agreement, Green Hills will lend Foster the sum of one hundred fifty thousand dollars (\$150,000) two years from the effective date of this Agreement.

(d) Each loan to Foster pursuant to this Section D.4. will accrue interest at the greater of (i) six percent per annum simple interest or (ii) the minimum rate required to avoid characterization of the loan as a below-market rate loan under Section 7872 of the Internal Revenue Code, and will be evidenced by a promissory note substantially in the form attached hereto as Exhibit D and incorporated herein by reference. Each such loan will be non-recourse to Foster except as set forth in paragraph D.4.(g), below.

(e) Each such loan will be due and payable (including principal and accrued interest) on the fifth anniversary of the date that it is made. Foster will have an option to extend each loan for an additional term of five years if on its maturity date Green Hills is not then a Reporting Company, but in that event (i) interest will be due and payable on the full outstanding balance quarterly and (ii) Green Hills will have an option to accelerate the maturity of the loan to a date which is six months after the last to occur of (i) the first date on which Green Hills becomes a Reporting Company, or (ii) the first date on which Foster may sell the shares underlying the Franklin B Option in conformity with securities law and contractual requirements affecting such shares.

(f) If any amount of interest or principal on a loan is not paid within ten (10) days after it is due, or if Foster defaults in any other obligations to Green Hills under this Agreement and such default is not cured within thirty (30) days after Green Hills gives her written notice of the default, Green Hills may at its option declare the full balance of any or all then-outstanding loans immediately due and payable and provide Foster with written notice of such fact. Upon such declaration, Green Hills may proceed to satisfy the loan by canceling a number of Franklin B Options equal to the quotient which results from dividing (i) the balance of the outstanding loans which are

then due and payable (whether pursuant to Green Hills' declaration or otherwise), increased by applicable withholding taxes that must be remitted in at the time of cancellation, at the rates set forth in Section D, by (ii) the then-value per share of the Franklin B Options (or all Franklin B Options if such quotient is less than the number of Franklin B Options then outstanding). For this purpose, each Franklin B Option shall be deemed to have a per-share value equal to the per-share value of Green Hills common stock, as most recently determined by Green Hills for purposes of the Plan (or any successor stock option plan or stock grant), less the strike price for each Franklin B Option. The rights of Green Hills set forth herein shall be protected by the execution of a Security Agreement and filing of a Form UCC-1 financing statement executed by Green Hills, Foster and Franklin in the forms attached hereto as Exhibits E and F, respectively.

(g) Green Hills' obligations to make loans to Foster under this ¶¶D.4. are personal to Foster, and shall not be assignable or transferable to any third person or party, whether voluntarily or by operation of law. Any attempt to sell, hypothecate, transfer or assign in any way Foster's rights under this ¶¶D.4. shall be a material breach of this Settlement Agreement and Release.

5. General Release of Foster. Except as provided by the specific terms of this Agreement, Green Hills hereby releases Foster and each of her present and former affiliates, agents, assigns, attorneys, predecessors, principals, representatives, servants, successors, (collectively, the "Green Hills Released Parties") from any and all claims, demands, causes of action or other legal liabilities of any kind which Green Hills may have, whether known or unknown, against the Green Hills Released Parties, or any of them from the beginning of time to the date hereof. This release includes, but is not limited to, any and all claims, demands, causes of action or other legal liabilities arising out of, related to, or in any way connected with: (a) the Civil Action and (b) the Family Law Action, but excludes any claims, demands, causes of action or legal liability that result from the duties and obligations imposed on Foster by the plans, this Settlement Agreement and Release or the transactions contemplated by this Agreement. If Green Hills breaches any of its covenants contained in this

Agreement, Green Hills will pay all costs incurred by any of the Green Hills Released Parties, including reasonable attorneys' fees, in defending such claims, demands, causes of action or other legal liabilities.

6. Waiver of Civil Code Section 1542: Green Hills understands that the release of claims set forth herein covers claims which Green Hills knows and those which Green Hills may not know about. To that end, Green Hills expressly waives and relinquishes all rights and benefits under Section 1542 of the California Civil Code which provides:

"A General Release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

For purposes of this Waiver the terms "creditor," "his" and "him" as used in the above-quoted language of the California Civil Code, Section 1542, are understood to refer to Green Hills, and the term "debtor" is understood to refer to the Green Hills Released Parties, and each of them.

7. Standard of Care. Foster and Franklin agree that this Settlement Agreement and Release of claims does not create any fiduciary duty on the part of Green Hills. Green Hills shall not be liable for breach of its obligations under this Settlement Agreement and Release of Claims, except for gross negligence or intentional misconduct and shall in no event be liable for any consequential or non-economic damages, or punitive or exemplary damages. Green Hills shall not be responsible for any acts or omissions of any substitute attorney-in-fact provided that it shall have exercised ordinary and prudent care in the selection of such substitute. Notwithstanding any other provision herein, in the event that Green Hills receives conflicting instructions from Franklin or Foster or anyone claiming to act on their behalf

or for their benefit, which conflict is not resolved to Green Hills' satisfaction, Green Hills may at any time and in its complete and sole discretion interplead the Franklin B Options and/or any sums deposited, received or held by Green Hills in the Superior Court of California for Santa Barbara County and shall be fully released and discharged from any obligations hereunder respecting the Franklin B Options or such funds; provided however, that Green Hills shall retain the rights provided in this Agreement with respect to satisfaction of outstanding loans and withholding tax responsibilities. Franklin and/or Foster, as the Court may determine, shall be responsible for any attorneys' fees incurred by Green Hills, costs or expenses in connection with such interpleader. By executing this Agreement, both Foster and Franklin consent to the personal jurisdiction of such Court in such interpleader action and each waives all objections based on improper venue, forum non conveniens or similar grounds.

E. DUTIES OF ALL PARTIES IN RELATION TO TAX REPORTING AND PAYMENT IN REGARD TO FRANKLIN B OPTIONS.

1. Definitions. For purposes of this Section E, the term "Tax" means any income, payroll, withholding tax due and payable to any government authority that results from the exercise or surrender of the Franklin B Options in accordance with the provisions of this Agreement, together with any applicable interest, penalties, additional amounts or additions to tax that may be assessed with respect to any such taxes, and the term "Return" means and includes any tax return, information return, or other document required to be filed with a government authority with respect to a Tax, including but not limited to all schedules, exhibits, attachments, or explanations of items attached or pertaining thereto.

2. Anticipated Tax Treatment. The Parties understand and agree that under this Agreement, it is contemplated that:

(a) no taxable event with respect to the Franklin B Options will occur unless and until such Franklin B Options are exercised or canceled in accordance with the foregoing provisions of this Agreement;

(b) under current provisions of the Internal Revenue Code, such

exercises or cancellations of any Franklin B Options will or may constitute taxable events, and that it appears that any resulting Tax liability not imposed on Green Hills will be the responsibility of Franklin, and that Tax liability is intended to be assumed by Foster pursuant to the terms of this Agreement;

(c) as between Foster and Franklin, Foster will bear the economic burden of any Tax imposed that results from exercise(s) or cancellation(s) of any Franklin B Options, or any other transactions contemplated by this Agreement with respect to the Franklin B Options; and

(d) Green Hills will have certain withholding and reporting obligations with respect to the exercise(s) or surrender(s) of the Franklin B Options, as well as obligations regarding payment of the employer's portion of FICA Taxes and certain other payroll Taxes that may be due.

3. Tax Reporting and Payments. It is understood and agreed by all Parties that:

(a) No Party will file any Return that reflects treatment of the Franklin B Options that is in any way inconsistent with the foregoing unless and until the party provides to the other Parties and their respective attorneys a draft of the Return, an explanation of why it believes that such treatment is required by law, and an opportunity to confer and discuss the issues relating to the Tax in question;

(b) Green Hills will withhold from any proceeds of exercise or surrender of Franklin B Options, or from the sale or disposition of any shares acquired through the exercise of any Franklin B Options, all Tax amounts that it determines must be withheld and paid to all Tax authorities (whether by Green Hills, Franklin, or Foster, but exclusive of payroll Taxes imposed on Green Hills as employer). Withholdings will be made at the highest income Tax rates then in effect for federal and state purposes, and at the applicable payroll Tax rates.

(c) If Green Hills determines that it may then properly remit withholding Taxes for the account of Franklin with respect to the Franklin B Options, it

shall so remit the taxes withheld to the Tax authorities, and shall provide Franklin with an appropriate W-2 or other applicable form. Franklin will file Tax returns as required to report the income and taxes shown on such W-2 or similar form, shall request that any overpayments of Tax resulting from the withholdings be refunded rather than credited to estimated tax, and shall pay to Foster, immediately upon receipt or a refund or notice of allowance of credit, any refund or credit of Tax attributable to overwithholding of Tax when calculated at the tax rate attributable to Franklin's year-end income for the year in which said tax is due, resulting from the foregoing.

(d) If Green Hills determines that it may not then properly withhold Taxes for the account of Franklin but may then properly withhold Taxes for the account of Foster, it will remit the amounts withheld to the appropriate Tax authorities for the account of Foster and will provide Foster with an appropriate W-2 or other applicable form reporting such payments. Foster will file Tax returns as required to report the income shown on such W-2 or other applicable form.

(e) If Green Hills determines that it may not properly withhold Taxes for the account of either Foster or Franklin, it shall advise both Foster and Franklin of that fact and shall propose to them in writing a method by which the amounts withheld shall be forwarded to the Tax authorities in order to carry out the purposes of this Agreement (whether in the form of estimated tax payments or otherwise). If neither Foster nor Franklin objects to the proposal within ten (10) days after it is made, the matter shall be disposed of as proposed, and all Parties shall cooperate in effectuating the proposal including signing of any estimated tax forms if appropriate. If either Foster or Franklin makes a timely written objection to Green Hills (with copy to the other Party), all interested Parties shall confer within ten (10) days after such objection, and if they are unable to agree, the provisions of Section E.15 (relating to arbitration) shall apply. Green Hills shall hold the funds withheld until the arbitration panel makes an award, and such award is confirmed by court judgment and all appellate rights lapse or are exhausted.

4. Tax Indemnification. Foster will indemnify, defend and hold harmless Franklin and/or the Foster released parties from and against any Tax liability not

contemplated by the terms of this Section E of this Settlement Agreement and Release of Claims, that may be assessed against any one or more of them by reason of the 1999 Judgment or Settlement Agreement and Release of Claims, with respect to the exercise or cancellation of the Franklin B Options in the manner provided by this Agreement or the Plan, including all penalties, interest, and expenses of contesting any administrative or judicial proceeding. Franklin will indemnify, defend and hold harmless Foster and/or the Franklin released parties from and against any Tax liability not contemplated by the terms of this Section E of this Settlement Agreement and Release of Claims that may be assessed against any one or more of them by reason of the 1999 Judgment, this Settlement Agreement and Release of Claims, with respect to the exercise or cancellation of any Franklin A Options in the manner provided by this Agreement or the Plan, including all penalties, interest, and expenses of contesting any administrative or judicial proceeding. Each party who breaches the provisions of Clause E.3, above, will indemnify the parties hereto from and against any claims, demands, causes of action, or other legal liabilities of any nature that such other Parties may incur that may be deemed reasonably attributable to such breach. Imposition of any Tax liability (including penalties, interest, and costs of any administrative or judicial proceeding) with respect to the Franklin B Options or the Franklin A Options other than as contemplated by this Agreement shall be conclusively deemed attributable to such breach.

F. OTHER TERMS.

1. Denial of Liability. This Agreement settles claims which are denied or contested. Nothing contained herein shall be construed as an admission by any party hereto to any other party, of any liability of any kind, which liability each Party has denied and continues to deny nor shall the entry by Green Hills into this Agreement and Release of Claims constitute a precedent or requirement for such agreement for any other employee, or spouse or former spouse of an employee.

2. Advice of Counsel/Finality of Agreement. Each of the Parties has consulted with an attorney in this action, has been given a reasonable opportunity to consider the Agreement, is fully advised as to the finality of said Agreement and intends

to be bound by it. The Parties hereto recognize that they may be mistaken as to the facts or law upon which they may be relying in executing this Agreement and settling their disputes and that such facts or law may be other than or different from their present beliefs. Nonetheless, the Parties hereto, in order to settle this matter, intend to and do hereby waive any and all claims, demands and causes of action, heretofore described, whether such claims, demands and causes of action are known or unknown.

3. Authority of the Parties. Each of the Parties signing this Agreement represents and warrants to the other Party that she, he or it has the authority to do the things contemplated hereunder.

4. Assignment. This Settlement Agreement and Release of Claims may not be assigned for any purpose and any attempt to assign this Settlement Agreement and Release of Claims shall be void and of no effect. Subject to the foregoing, this Agreement shall be inure to the benefit of, and be binding upon the Parties' respective heirs, executors, administrators, and successors-in interest by operation of law.

5. Subject Headings. The subject headings of the paragraphs of this Agreement are included solely for purposes of convenience and reference only, and shall not be deemed to explain, modify, limit, amplify or aid in the meaning, construction or interpretation of any of the provisions of this Agreement.

6. Schedules/Exhibits. All schedules and exhibits, attached hereto and referred to herein, are an integral part of this Agreement and are incorporated herein by reference hereby.

7. Amendments. Unless expressly permitted herein, no supplement, modification or amendment of any term, provision or condition of this Agreement (including this Paragraph) shall be binding or enforceable unless evidenced in a writing executed by the Parties hereto.

8. Entire Agreement and Waiver. This Agreement contains the entire agreement between Green Hills, O'Dowd, Franklin on the one hand and Foster on the

other hand hereto and supersedes all prior and contemporaneous agreements, arrangements, negotiations and understandings between such Parties hereto, relating to the subject matter hereof. There are no other agreements, understandings, statements, promises or inducements, oral or otherwise, contrary to the terms of this Agreement. No representations, warranties, covenants or conditions, express or implied, whether by statute or otherwise, other than as set forth herein, have been made by any party hereto. No waiver of any term, provision, or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute, a waiver of any other provision hereof, whether or not similar, nor shall such waiver constitute a continuing waiver, and no waiver shall be binding unless executed in writing by the party making the waiver.

9. 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.

10. Applicable Law. This Agreement shall be governed by, construed and enforced in accordance with and subject to the law of the State of California.

11. Reformation. If any provision of this Agreement is declared invalid by any tribunal, then such provision shall be deemed automatically adjusted to the minimum extent necessary to conform to the requirements for validity as declared at such time and, as so adjusted, shall be deemed a provision of this Agreement as though originally included herein. In the event that the provision invalidated is of such a nature that it cannot be so adjusted, the provision shall be deemed deleted from this Agreement as though such provision had never been included herein. In either case, the remaining provisions of this Agreement shall remain in effect.

12. Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if personally delivered, transmitted by facsimile (with mechanical confirmation of transmission), deposited in the United States mail, registered or certified, postage prepaid, or delivered to an overnight courier service addressed to the Parties' addresses set forth

on the signature page hereof, with copies to each attorney for the other Parties, unless the same shall have been changed by notice in accordance herewith. Notices given in the manner provided for in this Section 14 shall be deemed effective on the third day following deposit in the mail, the date shown on the courier service delivery confirmation if given by overnight courier, or on the day of transmission or delivery if given by facsimile or by hand.

13. Severability. The Parties hereto recognize that if, after the date of execution of this Agreement, any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision shall be fully severable and such severance will not affect the validity of the remainder of the Agreement.

14. Execution of Documents. Each party hereto agrees to take, forthwith, whatever steps, and execute whatever documents may be necessary to complete and consummate this Agreement and the transactions contemplated hereby.

15. Interpretations and Definitions. In this Agreement whenever the context so requires, the gender includes the neuter, feminine and masculine and the number includes the singular and the plural and the words "person" and "party" include individuals, corporations, partnerships, firms, trusts, associations, other legal entities and any group of persons acting in concert. Any references to Parties, Paragraphs or Exhibits shall be to the relevant Parties, Paragraphs or Exhibits as appropriate. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular articles, section or other subdivision. The words "includes" and "including" shall mean by way of example and not by way of limitation. References in this Agreement to "provisions" of this Agreement refer to the terms, conditions and promises contained in this Agreement taken as a whole.

16. Construction of Agreement. Each Party has cooperated in the drafting and preparation of this Agreement and, in any construction to be made of this Agreement, it shall not be construed against any Party.

17. Disputes. Except as provided in Section D.7., above, any dispute, controversy or claim arising out of or relating to the validity, construction, enforceability

or performance of this Agreement or any agreement, whether oral or written, relating or referring to a transaction contemplated by this Agreement or the breach thereof (collectively, "Disputes"), between or among the Company or the other Parties to this Agreement or any of their Affiliates (as defined herein), shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Dispute Resolution Procedures (including Mediation and Arbitration Rules), as amended and effective on September 1, 2000, as these rules may be hereafter amended, except as specified in sub-parts (a) through (h) of this Section 15. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

(a) The place of arbitration shall be Santa Barbara County, California.

(b) No arbitrator shall be in the employ of, or otherwise affiliated with any Party to this Agreement, or any of their respective affiliates, within the five (5) years preceding the institution of such arbitration, unless the other Parties to such arbitration consent thereto.

(c) The arbitrators' decision shall be rendered within ninety (90) days after the arbitrators are appointed.

(d) Upon the application of any party to any arbitration proceeding, and whether or not an arbitration proceeding has yet been initiated, the United States District Court for the Central District of California and the Superior Court for Santa Barbara County, California, and no other courts, shall have in personam jurisdiction and hereby are authorized: (A) to issue and enforce in any lawful manner such temporary restraining orders, preliminary injunctions and other interim measures of relief as may be necessary to prevent harm to the interests of a party, or as otherwise may be appropriate, pending the conclusion of arbitration proceedings pursuant to this Section 15, (B) to enter into and enforce in any lawful manner such judgments for permanent equitable relief as may be necessary to prevent harm to the interests of a party, or as otherwise may be appropriate, following the issuance of an

arbitration award pursuant to this Section 15, and (C) to enter a final award rendered pursuant to the arbitration proceeding as a final judgment in a court specified in this Section and to enforce such judgment.


(e) Except as provided in this Section 15, each Party, and their respective affiliates, waives any and all rights to institute a proceeding in any federal, state or local court (and, without limiting the foregoing, further waives any and all rights to a trial by jury) with respect to any Dispute.


(f) Any arbitration award shall include an award of costs and attorneys' fees (including the arbitrators' reasonable compensation and reimbursement of expenses, including expert witness fees, and any collection costs) to the prevailing party(ies) from the non-prevailing party(ies), as determined pursuant to the arbitration proceeding. Pending an award of costs and fees hereunder, each person who is a party to any arbitration hereunder shall pay (i) its own expenses in connection therewith, and (ii) 50% of the arbitrator's fees and costs.

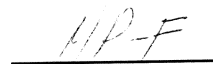
(g) Notwithstanding any provision of rules or statutes to the contrary, the refusal or failure of any party to appear at, or participate in, any hearing or other portion of any arbitration shall not prevent any such hearing or proceeding from going forward, and the arbitrators are empowered to make their decision and/or render an award ex parte, which shall be binding on the non-appearing party as fully as though that party had participated in the hearing or proceeding.

(h) Each person bound by the terms of this arbitration agreement, including the Company, the other Parties to this Agreement and their Affiliates (as defined herein) hereby irrevocably appoints its attorney who has signed below as its agent for the service of any process in any action or proceeding arising under or related to this Section 15. A party may change the name and address of its agent, and an agent may change its address, for this purpose by providing written notice to each other Party and agent of the new matter, by first-class mail postage prepaid, prepaid courier service, facsimile, or electronic transmission, with a mailed confirmation copy.

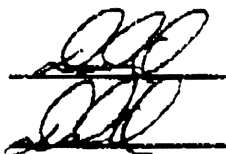
18. NOTICE OF WAIVER OF JURY TRIAL. BY INITIALING IN THE PLACE PROVIDED BELOW YOU ARE AGREEING TO HAVE ANY "DISPUTE" (AS DEFINED ABOVE) DECIDED BY ARBITRATION IN ACCORDANCE WITH THE TERMS HEREOF. YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE PROVIDED BELOW, YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO, AMONG OTHER THINGS, DISCOVERY AND APPEAL, EXCEPT TO THE EXTENT AUTHORIZED IN SECTION 15 OF THIS AGREEMENT. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU AND YOUR "AFFILIATES" (AS DEFINED) MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE, WHICH GOVERNS ISSUES OF ARBITRABILITY. EACH OF THE UNDERSIGNED HAS READ AND UNDERSTANDS THE FOREGOING AND AGREES TO SUBMIT ALL DISPUTES (AS DEFINED ABOVE) TO ARBITRATION PURSUANT TO THIS SECTION AND SECTION 15.

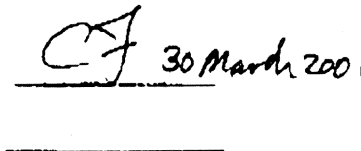






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19. Each party to this Agreement shall each bear its own attorney's fees and costs incurred in the preparation and negotiation of this Agreement and the effectuation of the transactions contemplated by it.

EACH PARTY ACKNOWLEDGES THAT IT HAS READ THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS, UNDERSTANDS IT AND, AFTER CONSULTING WITH ITS ATTORNEY, IS VOLUNTARILY ENTERING INTO IT WITH THE INTENTION OF RELINQUISHING ALL CLAIMS AND RIGHTS, KNOWN AND UNKNOWN, OTHER THAN THOSE SPECIFICALLY SET FORTH IN THIS AGREEMENT.

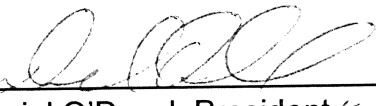
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Signature blocks start on next page.]***


APPROVED AS TO FORM:

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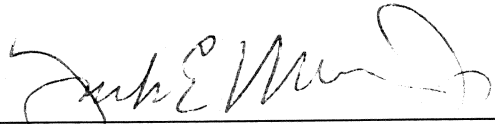
By 

Daniel O'Dowd, President/Secretary 

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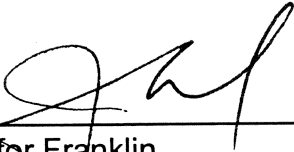


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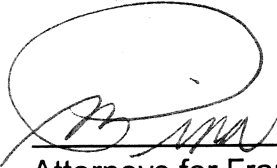
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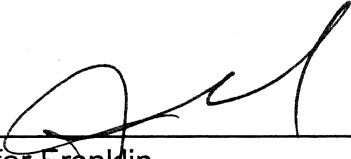
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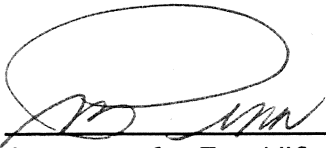
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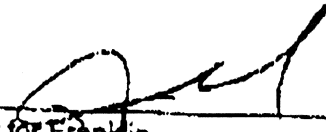
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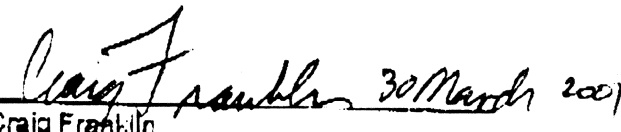
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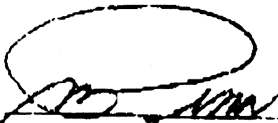


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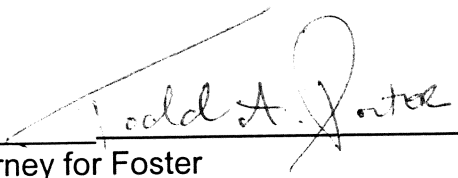


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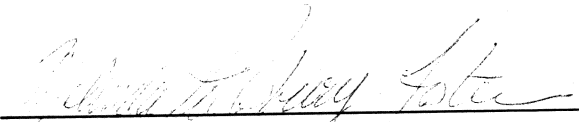
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