



Dated: August 30, 2006

Redfield T. Baum

REDFIELD T. BAUM, SR
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re
THREE-FIVE SYSTEMS, INC.,
Debtor.

Chapter 11
Case No. 05-bk-17104-RTB;

In re
TFS-DI, INC.
Debtor.

Chapter 11
Case No. 05-bk-18689-RTB

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER CONFIRMING
AMENDED JOINT PLAN OF
REORGANIZATION**

THIS MATTER is before the Court on the Debtors': (1) Motion for Confirmation; (2) Memorandum in Support of Confirmation of Amended Joint Plan of Reorganization and Omnibus Response to Confirmation Objections; (3) Request for Judicial Notice; and (4) Other Related Relief, filed on June 12, 2006 (the "Confirmation Motion") [Docket No. 276] by Three-Five Systems, Inc. ("TFS") and TFS-DI, Inc. (with TFS, the "Debtors").

I. BACKGROUND¹

A. Plan and Disclosure Statement

1. The Debtors filed their *Amended Joint Plan of Reorganization*, dated March 15, 2006 (the "Plan") [Docket No. 194] and now seek confirmation of the Plan under Bankruptcy Code § 1129.

¹ Unless otherwise defined below, capitalized terms used in this Order have the meanings given to them in the Plan.

1 2. On March 24, 2006, the Court entered its *Order Approving Disclosure Statement*
2 *and Procedures For Confirmation Of Amended Joint Plan of Reorganization* (the “**Solicitation**
3 **Order**”) [Docket No. 206], which approved the Debtors’ *Disclosure Statement in Support of*
4 *Amended Joint Plan of Reorganization*, dated March 15, 2006 (the “**Disclosure Statement**”)
5 [Docket No. 195].

6 **B. Solicitation and Voting**

7 3. The Debtors used the Disclosure Statement to solicit votes to accept or reject the
8 Plan. The Debtors mailed, among other things, copies of the Plan, the Disclosure Statement, the
9 Solicitation Order, and ballots to be used by holders of Equity Interests in Class 5 under the Plan
10 (the “**Ballots**”) to all parties required to receive these solicitation packets under the Solicitation
11 Order.

12 4. Voting on the Plan concluded on May 13, 2006. *See Ballot Report For Amended*
13 *Joint Plan Of Reorganization*, filed with the Court on June 6, 2006 (the “**Ballot Report**”)
14 [Docket No. 272]. The Ballot Report indicates that the one class under the Plan not already
15 deemed to accept the Plan under Bankruptcy Code § 1126(f)—Class 5 Equity Interests and
16 Equity Related Claims—voted to accept the Plan.

17 **C. Procedural History**

18 5. In support of confirmation of the Plan, the Debtors filed the Ballot Report, the
19 Confirmation Motion, and the *Declaration Of Carl Young In Support Of Confirmation Of*
20 *Amended Joint Plan of Reorganization*, dated June 12, 2006 (the “**Young Declaration**”) [Docket
21 No. 278].

22 6. The Court received five objections to confirmation of the Plan (together, the
23 “**Confirmation Objections**”), filed by: (a) the Official Committee of Equity Holders appointed
24 in the IFS case (the “**Equity Committee**”) [Docket No. 269]; (b) the United States Securities
25 and Exchange Commission (the “**SEC**”) [Docket No. 270]; (c) the Office of the United States
26 Trustee (the “**UST**”) [Docket No. 273]; (d) CGSNW-Willows, LLC (“**Willows**”), a general
27 unsecured creditor [Docket No. 271]; and (e) the Official Committee of Unsecured Creditors

1 appointed in the TFS Electronic Manufacturing Services, Inc. (“**EMS**”) bankruptcy case (Case
2 No. 05-15403 pending before this Court) (the “**EMS Committee**”) [Docket No. 268].

3 7. On June 13, 2006, the Court conducted a preliminary hearing under Bankruptcy
4 Code § 1128 and Bankruptcy Rule 3020(b)(2) to consider confirmation of the Plan. At that
5 preliminary hearing, statements of counsel for the Debtors, the EMS Committee, the Equity
6 Committee, and the UST were heard with respect to confirmation of the Plan. Additionally, the
7 Court admitted the contents of the Young Declaration as direct testimony, and there was no
8 cross-examination. The parties informed the Court that a global settlement had been reached
9 between the Debtors, the EMS Committee, EMS, and Willows (the “**Settlement**”) such that if
10 the Court approved the Settlement after a hearing set for July 7, 2006, the EMS Committee and
11 Willows would withdraw their objections to confirmation of the Plan.

12 8. The Debtors also sought to resolve most of the other confirmation objections at
13 the preliminary hearing by representing to the Court that the Debtors would remove offending
14 portions of the Plan pertaining to certain releases and a discharge. These revisions to the Plan are
15 set forth in Section III.D of this Order below.

16 9. The Equity Committee continued to urge its objection to the exculpation
17 provisions of the Plan found in Section 12.04 of the Plan (the “**Exculpation Provision**”). The
18 Court heard arguments of counsel for the Debtors and the Equity Committee on that point, but
19 deferred further consideration of that specific objection to the final hearing on confirmation of
20 the Plan, which the Court set for July 7, 2006, contemporaneously with the Court’s hearing on
21 approval of the Settlement.

22 10. The Court conducted a continued hearing on confirmation of the Plan on July 7,
23 2006. Counsel for the Debtors and the Equity Committee continued to disagree over the
24 exculpation provisions of the Plan, and the Court requested additional briefing on that issue. The
25 Equity Committee also urged its objection to the Settlement and requested that the Court conduct
26 an evidentiary hearing regarding the Settlement and confirmation of the Plan. The Court set that
27 evidentiary hearing for July 26, 2006, and required that all briefing in support of or against

1 approval of the Settlement and confirmation of the Plan be filed no later than July 18, 2006. The
2 Court also required the Debtors to submit a declaration of Carl Young in support of confirmation
3 and the Settlement that would serve as Mr. Young's direct examination for purposes of the July
4 26, 2006 hearing. *See Minute Entry for July 7, 2006* [Docket No. 291].

5 11. On July 17, 2006, the SEC filed a *Supplemental Objection to Confirmation*
6 [Docket No. 295], urging a continued objection to the injunction provisions of the Plan (the
7 "**Supplemental SEC Objection**"). On July 18, 2006: (a) the Equity Committee filed its
8 *Memorandum of Law and Fact by Official Equity Holders Committee of Three Five Systems, Inc.*
9 *Regarding Global Settlement and Plan Confirmation* [Docket No. 304], which argued continued
10 objection to confirmation of the Plan and approval of the Settlement; (b) the Debtors filed the
11 *Supplemental Declaration of Carl Young In Support of Confirmation of Amended Joint Plan of*
12 *Reorganization* [Docket No. 298], and the *Debtor's Supplemental Brief in Support of*
13 *Exculpation Clause* [Docket No. 300]; and (c) the UST filed the *United States Trustee's*
14 *Supplemental Objection to Plan Confirmation as Currently Contemplated* [Docket No. 305],
15 arguing that the Plan was not feasible (the "**Supplemental UST Objection**").

16 12. The Supplemental SEC Objection has been resolved by the Debtors and the SEC
17 having agreed on amendments to the injunction provisions of the Plan, with the agreed amended
18 language being included in Section III.D of this Order below.

19 13. The Court conducted the evidentiary hearing and final hearing on confirmation of
20 the Plan on July 26, 2006 and took all matters under advisement. The UST indicated at the final
21 hearing that its Supplemental UST Objection had been resolved. The Court noted that if the
22 Court approved the Settlement, the EMS Committee and Willows had already agreed that their
23 objections to confirmation of the Plan would be withdrawn.

24 14. While the Court had these matters under advisement, the Debtors filed their
25 *Notice of Non-Material Modifications to Amended Joint Plan of Reorganization*, dated August 8,
26 2006 [Docket No. 324], which informed the Court and all parties that the Debtors had non-
27 materially amended the Plan to change the number and identities of Reorganized TFS's initial

1 board of directors. A conforming change to the Plan is included in Section III.D of this Order
2 below.

3 15. On August 23, 2006, the Court issued its *Minute Entry / Order for Matter Taken*
4 *Under Advisement*, dated August 22, 2006 (the “**Ruling**”), overruling the Equity Committee’s
5 objections to the Settlement and the Exculpation Provision, and indicating that the Settlement
6 would be approved and the Plan confirmed.

7 16. Based on the Plan, the testimony contained in the Young Declaration, the
8 Supplemental Young Declaration and the testimony presented at the July 26, 2006 hearing, the
9 Ballot Report, the Confirmation Motion, the statements made in support of confirmation of the
10 Plan, the various other pleadings filed on July 18, 2006, the Ruling (which is incorporated in its
11 entirety into this Order), and the entire record before the Court, the Court makes the following
12 findings of fact and conclusions of law and issues the following orders:

13 **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

14 **A. Jurisdiction And Venue**

15 17. The Court has jurisdiction over these Chapter 11 cases under 28 U.S.C. §§ 157
16 and 1334. This matter constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue in this
17 Court is proper under 28 U.S.C. §§ 1408 and 1409.

18 18. The Court’s retention of jurisdiction as set forth in Article 13 of the Plan comports
19 with 28 U.S.C. § 157.

20 **B. Contents Of The Plan**

21 19. In accordance with Bankruptcy Code § 1123(a), the Plan: (a) designates classes of
22 Claims and Equity Interests, other than claims of a kind specified in Bankruptcy Code
23 §§ 507(a)(1), 507(a)(2) and 507(a)(8), and the classification complies with Bankruptcy Code
24 § 1122; (b) specifies Classes of Claims and Equity Interests that are impaired under the Plan;
25 (c) specifies the treatment of Classes of Claims and Equity Interests that are impaired under the
26 Plan; (d) provides the same treatment for each Claim or Equity Interest of a particular Class,
27 unless the holder of a particular Claim or Equity Interest agrees to less favorable treatment of the

1 particular Claim or Equity Interest; (e) provides for adequate means for the Plan's
2 implementation; and (f) contains only provisions that are consistent with the interests of creditors
3 and equity security holders and with public policy.

4 20. As permitted by Bankruptcy Code § 1123(b), the Plan: (a) impairs or leaves
5 unimpaired Classes of Claims and Equity Interests; (b) provides for the assumption, rejection, or
6 assumption and assignment of the Debtors' executory contracts and unexpired leases;
7 (c) provides for the retention and enforcement by Reorganized TFS of the Preserved Litigation
8 Claims and Avoidance Actions; (d) leaves the rights of holders of Claims unaffected; and
9 (e) includes other appropriate provisions not inconsistent with the applicable provisions of the
10 Bankruptcy Code.

11 21. The Plan constitutes a motion for substantive consolidation of the liabilities and
12 properties of both Debtors. There is substantial identity among the Debtors in that there is no
13 reliable or reasonable means by which the Debtors could separate their assets and liabilities by
14 individual Debtor in order to formulate two separate plans, and the liabilities as between the
15 Debtors as a unified group and their most significant creditors hopelessly obscure the distinctions
16 between the Debtors. Substantive consolidation of the Debtors as provided in the Plan is the most
17 equitable means by which to avoid the greatest harm to all creditors and the most effective way
18 to maximize recoveries to all creditors. Substantive consolidation of the Debtors is in the best
19 interests of all creditors and the Estates, and should be approved.

20 **C. Notice, Solicitation, And Acceptance**

21 22. In accordance with Bankruptcy Rule 2002, the Court finds and concludes that
22 adequate notice of the time for filing objections to confirmation of the Plan and adequate notice
23 of the Confirmation Hearing were provided to parties in interest. No additional notice of the
24 Confirmation Hearing or the opportunity to be heard with respect to confirmation of the Plan is
25 required or appropriate under applicable Bankruptcy Rules or the Solicitation Order.

26 23. In accordance with Bankruptcy Code § 1126(b): (a) the solicitation of votes to
27 accept or reject the Plan complied with all applicable nonbankruptcy law, rules, and regulations

1 governing the adequacy of disclosure in connection with the solicitation; and (b) the solicitation
2 was conducted after disclosure of adequate information, as defined in Bankruptcy Code
3 § 1125(a), and in accordance with the Solicitation Order.

4 24. The Debtors and their counsel solicited votes to accept or reject the Plan in good
5 faith and in compliance with the applicable provisions of the Bankruptcy Code and are,
6 therefore, entitled to the protections afforded by Bankruptcy Code § 1125(e).

7 25. With respect to all Classes under the Plan: (a) Classes 1, 2, 3, and 4 are not
8 impaired and are deemed to have accepted the Plan without voting under Bankruptcy Code
9 § 1126(f); and (b) Class 5 has voted accept the Plan by satisfying the voting requirements in
10 Bankruptcy Code § 1126(c).

11 **D. Compliance With The Requirements Of Bankruptcy Code § 1129**

12 26. In accordance with Bankruptcy Code § 1129(a)(1), the Plan complies with the
13 applicable provisions of the Bankruptcy Code.

14 27. In accordance with Bankruptcy Code § 1129(a)(2), the Debtors, as proponents of
15 the Plan, have complied with the applicable provisions of the Bankruptcy Code.

16 28. In accordance with Bankruptcy Code § 1129(a)(3), the Debtors have proposed the
17 Plan in good faith and not by any means forbidden by law, and the Debtors have acted, and are
18 presently acting, in good faith in conjunction with all aspects of the Plan and these Chapter 11
19 Cases.

20 29. In accordance with Bankruptcy Code § 1129(a)(4), all payments made or to be
21 made by the Debtors or by any person acquiring property under the Plan, for services or for costs
22 and expenses in, or in connection with, the Chapter 11 Cases or the Plan, have been approved by,
23 or are subject to approval of, the Court as reasonable.

24 30. In accordance with Bankruptcy Code § 1129(a)(5): (a) the Debtors, as proponents
25 of the Plan, have disclosed the identities and affiliations of all individuals that will serve, after
26 confirmation of the Plan, as officers and directors of Reorganized TFS; (b) the appointment of
27 those individuals is consistent with the interests of the creditors and with public policy; and

1 (c) the Debtors, as proponents of the Plan, have disclosed the identities of, and the nature of any
2 compensation for, all insiders that will be employed by Reorganized TFS.

3 31. Neither the Debtors nor Reorganized TFS is subject to any governmental
4 regulation of rates for purposes of Bankruptcy Code § 1129(a)(6).

5 32. In accordance with Bankruptcy Code § 1129(a)(7), with respect to impaired
6 Classes of Claims or Equity Interests, each holder of an Equity Interest in the one impaired Class
7 has either accepted the Plan or will receive or retain under the Plan on account of its Equity
8 Interest property of a value, as of the Effective Date, that is not less than the amount that the
9 holder would receive or retain if the Debtors were liquidated under Chapter 7 of the Bankruptcy
10 Code.

11 33. In accordance with Bankruptcy Code § 1129(a)(8), Classes 1, 2, 3, and 4 either
12 are not impaired under the Plan and, therefore, are deemed to have accepted the Plan. Class 5 has
13 voted to accept the Plan.

14 34. In accordance with Bankruptcy Code § 1129(a)(9)(A), the Plan provides that each
15 holder of an Allowed Administrative Claim will be paid in full in Cash (or otherwise satisfied in
16 accordance with its terms) on the latest of: (a) the Effective Date, or as soon after as practicable;
17 (b) any date the Bankruptcy Court may fix, or as soon after that date as practicable; (c) 30 days
18 after the Claim is Allowed; and (d) any date on which the holder of the Claim and the Debtors or
19 Reorganized TFS agree. The Plan also provides that each holder of a Preserved Ordinary Course
20 Administrative Claim will be paid in full in Cash at Reorganized TFS's election either in
21 accordance with the terms and conditions under which the Claim arose or in the ordinary course
22 of Reorganized TFS's business. Payments will be made without further action by the holder of
23 the Preserved Ordinary Course Administrative Claim. The Plan also provides that each holder of
24 a Professional Fee Claim will be paid in full in Cash: (a) no later than three days after such
25 Professional Fee Claim is Allowed; (b) on any other terms the holder of an Allowed Professional
26 Fee Claim and the Debtors or Reorganized TFS may agree; or (c) in accordance with the terms
27 of any applicable administrative procedures order entered by the Bankruptcy Court. Each Person

1 seeking an award by the Bankruptcy Court of Professional Fees must file with the Bankruptcy
2 Court and serve on Reorganized TFS its final application for allowance of compensation for
3 services rendered and reimbursement of expenses incurred through the Confirmation Date within
4 60 days after the Effective Date.

5 35. In accordance with Bankruptcy Code § 1129(a)(9)(B), the Plan provides that each
6 holder of an Allowed Priority Claim other than a Priority Tax Claim will receive Cash in an
7 amount equal to its Allowed Priority Claim on the later of: (a) the Effective Date, or as soon
8 after as practicable; and (b) 30 days after the Priority Claim is Allowed; unless, before the later
9 of these two dates, the holder of the Claim and Reorganized TFS agree in writing to a different
10 date.

11 36. In accordance with Bankruptcy Code § 1129(a)(9)(C), the Plan provides that each
12 holder of an Allowed Priority Tax Claim will be paid in full in Cash on the later of the Effective
13 Date and 30 days after the Claim is Allowed, but the Debtors or Reorganized TFS may elect to
14 pay any Allowed Priority Tax Claim through regular installment payments in Cash of a total
15 value, as of the Effective Date, equal to the Allowed amount of the Claim, over a period ending
16 not later than five years after the Petition Date, and in a manner not less favorable than the most
17 favored General Unsecured Claim provided for by the Plan. If the Debtors or Reorganized TFS
18 so elect, the installment payments will be made in equal quarterly installments of principal plus
19 simple interest on the unpaid portion of the Allowed Priority Tax Claim accruing from the
20 Effective Date at the rate of six percent per year. The first payment will be made on the earliest
21 of: (a) the Effective Date, or as soon after as practicable; (b) 30 days after the Claim is Allowed;
22 and (c) another date on which the holder of the Claim and the Debtors or Reorganized TFS
23 agree. Reorganized TFS retains the right to prepay any Allowed Priority Tax Claim, or any
24 remaining balance of such a Claim, in full or in part, at any time on or after the Effective Date
25 without premium or penalty.

26 37. In accordance with Bankruptcy Code § 1129(a)(10), as found in the Solicitation
27 Order, and as reflected in the Ballot Report, there are no impaired Classes of Claims. The only

1 impaired Class under the Plan is Class 5—which is the class of Equity Interests under the Plan—
2 and it has voted to accept the Plan.

3 38. In accordance with Bankruptcy Code § 1129(a)(11), confirmation of the Plan is
4 not likely to be followed by the need for further financial reorganization of the Debtors or
5 Reorganized TFS.

6 39. In accordance with Bankruptcy Code § 1129(a)(12), if all fees payable to the
7 United States Trustee under 28 U.S.C. § 1930(a)(6) have not been paid, the Plan provides for the
8 payment of all those fees on the Effective Date or as they come due after the Effective Date.

9 40. In accordance with Bankruptcy Code § 1129(a)(13), the Plan provides for the
10 continuation after the Effective Date of all retiree benefits, as that term is defined in Bankruptcy
11 Code § 1114, at the levels and for the duration applicable to the Debtors immediately before the
12 Effective Date.

13 41. For purposes of Bankruptcy Code § 1129(a)(14), the Debtors are not subject to
14 any judicial or administrative order, or by statute, to pay any domestic support obligation.

15 42. For purposes of Bankruptcy Code § 1129(a)(15), neither Debtor is an individual.

16 43. For purposes of Bankruptcy Code § 1129(a)(16), there are no “provisions of
17 nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a
18 moneyed, business, or commercial corporation or trust” that apply to either Debtor, since the
19 Debtors are both commercial corporations.

20 44. The principal purpose of the Plan is not the avoidance of taxes or the avoidance of
21 the application of Section 5 of the Securities Act, and no objection has been filed by any
22 governmental unit asserting such avoidance. The Plan, therefore, complies with Bankruptcy
23 Code § 1129(d).

24 **E. Satisfaction Of Conditions To Confirmation**

25 45. The conditions to confirmation of the Plan set forth in Section 11.01 of the Plan
26 will have been satisfied by the time the Court enters this Order.
27

1 **F. Transactions Under The Plan**

2 46. Without further application to or order of the Court, or need for further corporate
3 action, the Debtors and Reorganized TFS are authorized to enter into, implement, and effect all
4 transactions contemplated in the Plan, including the adoption of the Reorganized Certificate and
5 the Reorganized By-Laws.

6 47. The assumption or rejection of executory contracts and unexpired leases under the
7 Plan is a reasonable exercise of the Debtors’ business judgment and is in the best interests of the
8 Debtors and the Estates.

9 **G. Miscellaneous**

10 48. Entry of this Order makes valid and enforceable each provision of the Plan (as
11 modified in this Order) in accordance with its terms.

12 49. In satisfaction of Bankruptcy Rule 3016(a), the Plan is dated, and the entities
13 submitting it are identified.

14 **III. ORDER**

15 In light of the foregoing Findings of Fact and Conclusions of Law and the Ruling, which is
16 incorporated in its entirety into this Order, **IT IS ORDERED** that:

17 **A. Integration**

18 50. The findings of this Court set forth in this Order and in the Ruling constitute
19 findings of fact and conclusions of law under Bankruptcy Rule 7052, applicable to this matter
20 under Bankruptcy Rule 9014. If any findings of fact constitute conclusions of law, they are
21 adopted as such. If any conclusions of law constitute findings of fact, they are adopted as such.

22 **B. Confirmation Protocol**

23 51. The Confirmation Motion and the confirmation procedures set forth in the
24 Confirmation Motion are **GRANTED** and **APPROVED**.

25 **C. Confirmation**

26 52. The Plan is **CONFIRMED**.

27

1 53. By its confirmation of the Plan, but subject to the Effective Date occurring, the
2 Court GRANTS the motion to substantively consolidate the liabilities and properties of the
3 Debtors.

4 54. On the Effective Date: (a) the Chapter 11 Cases will be deemed to be consolidated
5 into the Chapter 11 Case of TFS as a single consolidated case; (b) all property of the Estate of
6 each Debtor will be deemed to be property of the Consolidated Estate; (c) all Claims against each
7 Estate will be deemed to be Claims against the Consolidated Estate, any proof of claim filed
8 against one or more of the Debtors will be deemed to be a single Claim filed against the
9 Consolidated Estate, and all duplicate proofs of claim for the same Claim filed against more than
10 one Debtor will be deemed to be expunged; (d) unless otherwise provided in the Plan, all Equity
11 Interests in any Debtor other than TFS will be deemed to be extinguished for all purposes, and no
12 distributions under the Plan will be made on account of any such Equity Interests; (e) all
13 Intercompany Claims will be deemed Disallowed, discharged, and eliminated, and no
14 distributions under the Plan will be made on account of any Intercompany Claim; (f) all
15 guarantees by one Debtor of the obligations of the other Debtor or in favor of the other Debtor
16 will be deemed eliminated, and no distributions under the Plan will be made on account of
17 Claims based on such guarantees; and (g) for purposes of determining the availability of the right
18 of setoff under Bankruptcy Code § 553, both Debtors will be treated as one consolidated entity
19 so that, subject to the other provisions of Bankruptcy Code § 553, debts due to either Debtor may
20 be set off against the debts of the other Debtor.

21 55. Neither the Debtors, Reorganized TFS, nor any other party is required to deposit
22 any money under Bankruptcy Rule 3020(a).

23 56. Notwithstanding Bankruptcy Rule 3020(e) and any otherwise applicable law,
24 immediately on the entry of this Order, the terms of the Plan and this Order will be binding on
25 and inure to the benefit of the Debtors, all holders of Claims or Equity Interests, Reorganized
26 TFS, and the respective successors and assigns of all the foregoing.

1 57. In accordance with Bankruptcy Code § 1123(b)(3)(B), Reorganized TFS is
2 appointed as the representative and agent of the Estates to prosecute, compromise, or abandon
3 the Preserved Litigation Claims in accordance with the Plan.

4 **D. Amendments to Plan**

5 58. Section 5.04.b(i) of the Plan is replaced entirely with the following: “*Amount of*
6 *Distributions*. Each holder of an Allowed General Unsecured Claim will receive from
7 Reorganized TFS Cash in an amount equal to the amount of the Allowed General Unsecured
8 Claim plus interest at the Legal Interest Rate accruing from the Petition Date through the date
9 that the amount of the Allowed General Unsecured Claim is paid in full.” The Plan confirmed by
10 this Order contains Section 5.04.b(i) as amended by this Paragraph 58.

11 59. Section 12.02 of the Plan is entirely deleted. The Plan confirmed by this Order
12 does not contain Section 12.02.

13 60. Section 12.05 of the Plan is entirely deleted. The Plan confirmed by this Order
14 does not contain Section 12.05.

15 61. As restated immediately below, the Exculpation Provision is reasonable,
16 consistent with *In re PWS Holding Corp.*, 228 F.3d 224 (3d Cir. 2000), and should be approved
17 for the reasons stated in the Ruling. The Equity Committee’s objections to the Exculpation
18 Provisions are overruled. Accordingly, Section 12.04 of the Plan is replaced entirely with the
19 following:

20 **Exculpation.** None of the Debtors, Reorganized TFS, any
21 Committee, or any of their respective members, officers, directors,
22 employees, advisors, professionals, or agents have or will incur
23 any liability to any holder of a Claim or Equity Interest for any act
24 or omission in connection with, related to, or arising out of, the
25 Chapter 11 Cases, the pursuit of confirmation of this Plan, the
26 consummation of this Plan or the administration of this Plan or the
27 property to be distributed under this Plan, except for willful
misconduct or gross negligence, and, in all respects, the Debtors,
Reorganized TFS, any Committee, and each of their respective
members, officers, directors, employees, advisors, professionals,
and agents are entitled to rely on the advice of counsel with respect
to their duties and responsibilities under this Plan.

1 The Plan confirmed by this Order contains Section 12.04 as amended by this Paragraph 61.

2
3 62. Section 12.03 of the Plan is replaced entirely with the following:

4 **Injunction.** Except as provided in this Plan or the Confirmation
5 Order, as of the Confirmation Date, all entities that have held,
6 currently hold, or may hold a Claim or other debt or liability that is
7 unclassified by this Plan or that is classified by Article 4 of this
8 Plan or that is subject to a distribution under this Plan, or an Equity
9 Interest or other right of an equity security holder that is subject to
10 a distribution under this Plan are permanently enjoined from taking
11 any of the following actions on account of any such Claims, debts,
12 liabilities, Equity Related Claims, or Equity Interests or rights:
13 (a) commencing or continuing in any manner any action or other
14 proceeding against any property to be distributed under this Plan;
15 (b) enforcing, attaching, collecting or recovering in any manner
16 any judgment, award, decree, or order against any property to be
17 distributed under this Plan; (c) creating, perfecting, or enforcing
18 any Lien or encumbrance against any property to be distributed
19 under this Plan; and (d) commencing or continuing any action, in
20 any manner, in any place, that does not comply with or is
21 inconsistent with the provisions of this Plan or the Bankruptcy
22 Code. Nothing in this Section 12.03 or elsewhere in this Plan is to
23 be construed or is to have the effect of extinguishing, prohibiting,
24 or otherwise limiting, the right of any holder of a Claim to assert a
25 right to setoff or recoupment arising in connection with that Claim
26 as part of the resolution and treatment of that Claim under this
27 Plan. Nothing in this Section 12.03 or elsewhere in this Plan is to
be construed or is to have the effect of extinguishing, prohibiting,
or otherwise limiting, the right of either Estate or the Consolidated
Estate (through Reorganized TFS as its representative or
otherwise) or Reorganized TFS to assert and prevail on any
Preserved Litigation Claim, including without limitation any action
against any director or officer of either Debtor to the extent of
available insurance or TFS's Official Committee of Equityholders'
action against Jack Saltich initially brought in the Chapter 11
Cases. Nothing in this Section 12.03 of the Plan or elsewhere in
this Plan enjoins or otherwise precludes (or may be construed to
enjoin or otherwise preclude) any party in interest from enforcing
the terms of this Plan and the Confirmation Order.

24 The Plan confirmed by this Order contains Section 12.03 as amended by this Paragraph 62.

25
26 63. Section 6.08.a of the Plan is replaced entirely with the following:
27

1 **Initial Board of Directors.** The initial board of directors of
2 Reorganized TFS as of the Effective Date will consist of five
3 directors: (1) David Buchanan; (2) Robert Nahom; (3) Lyron L.
4 Bentovim; (4) G. Grant Lyon; and (5) Peter S. Davis.

5 The Plan confirmed by this Order contains Section 6.08.a as amended by this Paragraph 63.

6 **E. Bar Dates And Objections To Claims**

7 64. All requests for payment of an Administrative Claim (other than a Preserved
8 Ordinary Course Administrative Claim or Professional Fee Claim) must be served on
9 Reorganized TFS and filed with the Court no later than the Administrative Claims Bar Date. Any
10 holder of an Administrative Claim (other than a Preserved Ordinary Course Administrative
11 Claim or Professional Fee Claim) that fails to file and serve its request by the Administrative
12 Claims Bar Date is forever barred from asserting its Administrative Claim against either Debtor
13 or Reorganized TFS. As defined in the Plan, the Administrative Claims Bar Date is the first
14 Business Day that is 30 days after the date on which this Order is entered.

15 65. Each Person seeking an award by the Court of Professional Fees must file with
16 the Court and serve on Reorganized TFS its final application for allowance of compensation for
17 services rendered and reimbursement of expenses incurred through the Confirmation Date no
18 later 60 days after the Effective Date.

19 66. Any Claim resulting from the Debtor's rejection and cancellation of
20 indemnification obligations under Section 7.05 of the Plan must be filed no later than 60 days
21 after the date on which this Order is entered. Any such Claim not filed within that time is forever
22 barred.

23 67. All Claims arising from the rejection of any executory contract or unexpired lease
24 under the Plan must be filed with the Court no later than the first Business Day that is 30 days
25 after the date that the Court enters this Order. Any such Claim not filed within that time is
26 forever barred. With respect to any executory contract or unexpired lease rejected by the Debtors
27 before the Confirmation Date, the deadline for filing a Claim arising from that rejection is as set
forth in the order of the Court authorizing that rejection.

1 **F. Plan Implementation**

2 68. On the Effective Date, all instruments, agreements, and documents issued, entered
3 into, delivered, or filed under the Plan, including the Plan Documents, and any instrument,
4 agreement, or document entered into, delivered, or filed in connection with any of the foregoing,
5 will be deemed to be effective, binding, and enforceable in accordance with their respective
6 terms. As of the Effective Date: (a) the adoption, execution, delivery, and implementation of all
7 contracts, leases, instruments, releases, and other agreements related to or contemplated by the
8 Plan; and (b) the other matters provided for under, or in furtherance of, the Plan involving
9 corporate action required of a Debtor, will be deemed to have occurred and become effective as
10 provided in the Plan, and will be deemed authorized and approved in all respects without further
11 order of the Court or any further action by a Debtor's shareholders or directors.

12 69. The assumption of all executory contracts and unexpired leases assumed by the
13 Debtors during the Chapter 11 Cases or under the Plan are approved, and all such contracts and
14 leases remain in full effect for Reorganized TFS's benefit notwithstanding any provision in any
15 such contract or lease (including those described in Bankruptcy Code § 365(b)(2) and (f)) that
16 prohibits or conditions such assignment or transfer or that enables, permits, or requires
17 termination of such contract or lease.

18 70. All executory contracts and unexpired leases rejected under the Plan are deemed
19 rejected as of the date this Court enters this Order.

20 71. The Debtors and Reorganized TFS are released and discharged from all
21 obligations arising under all executory contracts and unexpired leases rejected during the Chapter
22 11 Cases or under the Plan.

23 **G. Injunction**

24 72. Except as provided in the Plan or this Order, as of the entry of this Order, all
25 entities that have held, currently hold, or may hold a Claim or other debt or liability that is
26 unclassified by the Plan or that is classified by Article 4 of the Plan or that is subject to a
27 distribution under the Plan, or an Equity Interest or other right of an equity security holder that is

1 subject to a distribution under the Plan are permanently enjoined from taking any of the
2 following actions on account of any such Claims, debts, liabilities, Equity Related Claims, or
3 Equity Interests or rights: (a) commencing or continuing in any manner any action or other
4 proceeding against any property to be distributed under the Plan; (b) enforcing, attaching,
5 collecting or recovering in any manner any judgment, award, decree, or order against any
6 property to be distributed under the Plan; (c) creating, perfecting, or enforcing any Lien or
7 encumbrance against any property to be distributed under the Plan; and (d) commencing or
8 continuing any action, in any manner, in any place, that does not comply with or is inconsistent
9 with the provisions of the Plan or the Bankruptcy Code. Nothing in this paragraph, this Order, or
10 the Plan is to be construed or is to have the effect of extinguishing, prohibiting, or otherwise
11 limiting, the right of any holder of a Claim to assert a right to setoff or recoupment arising in
12 connection with that Claim as part of the resolution and treatment of that Claim under the Plan.
13 Nothing in this paragraph, this Order, or the Plan is to be construed or is to have the effect of
14 extinguishing, prohibiting, or otherwise limiting, the right of either Estate or the Consolidated
15 Estate (through Reorganized TFS as its representative or otherwise) or Reorganized TFS to
16 assert and prevail on any Preserved Litigation Claim, including without limitation any action
17 against any director or officer of either Debtor to the extent of available insurance or TFS's
18 Official Committee of Equityholders' action against Jack Saltich initially brought in the Chapter
19 11 Cases. Nothing in this paragraph or Section 12.03 of the Plan enjoins or otherwise precludes
20 (or may be construed to enjoin or otherwise preclude) any party in interest from enforcing the
21 terms of the Plan and this Confirmation Order.

22 **H. Retention Of Jurisdiction**

23 73. This Court's retention of jurisdiction as set forth in Article 13 of the Plan is
24 APPROVED. Such retention of jurisdiction does not affect the finality of this Order, which the
25 Court now expressly directs the Clerk of the Bankruptcy Court to enter immediately.
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1 **I. Miscellaneous**

2 74. The terms of this paragraph will control if there is a conflict between the terms of
3 this paragraph and any other provision of this Confirmation Order or the Plan. Notwithstanding
4 any language in the Plan, including the provisions of Sections 11.03 and 12.03 of the Plan, or
5 this Confirmation Order to the contrary, Reorganized TFS and International Displayworks, Inc.
6 (“**IDW**”) agree that, because Reorganized TFS and IDW have not completed reconciling the
7 amounts due between them under the purchase and sale agreement dated as of March 30, 2005
8 (the “**IDW Purchase Contract**”), which the parties agree is not an executory contract for
9 purposes of the Plan or Bankruptcy Code § 365: (a) entry of this Confirmation Order does not
10 and will not prejudice the rights of any party to the IDW Purchase Contract (including IDW, the
11 Debtors, or Reorganized TFS) to assert any and all claims and defenses related to or arising
12 under the IDW Purchase Contract against the other and all such claims and defenses are
13 preserved; and (b) all provisions of the IDW Purchase Contract remain unmodified in all respects
14 by the terms of the Plan or this Confirmation Order and remain fully enforceable. As a result of
15 the uncertainty of the final reconciliation, any Claim that IDW has under the IDW Purchase
16 Contract is presently a Disputed Claim under the Plan. For the purposes of calculating
17 Reorganized TFS’s Cash reserves for Disputed Claims under Section 6.01.c. of the Plan, IDW
18 and the Debtors preliminarily agree that the Maximum Amount of IDW's Disputed Claim is
19 \$300,000, but the parties may at anytime after the Effective Date agree to increase or decrease
20 the Maximum Amount, and if they are unable to agree, either party may seek an order of the
21 Bankruptcy Court for an adjustment of the Maximum Amount. This Maximum Amount is
22 without prejudice to IDW's Claim ultimately being Allowed in any other amount or no amount,
23 or to IDW being entitled to distribution under the Plan in that Allowed amount, irrespective of
24 the Maximum Amount.

25 75. After the Confirmation Date but before substantial consummation of the Plan as
26 defined in Bankruptcy Code § 1101(2), the Debtors may, under Bankruptcy Code § 1127(b),
27 institute proceedings in the Court to remedy any defect or omission or reconcile any

1 inconsistency in the Plan, the Disclosure Statement, or this Order, and such matters as may be
2 necessary to carry out the purposes and effects of the Plan as long as such proceedings do not
3 materially and adversely affect the treatment of holders of Claims or holders of Equity Interests
4 under the Plan. Prior notice of such proceedings must be served in accordance with the
5 Bankruptcy Rules or applicable order of the Court.

6 76. The **Distribution Record Date** referred to in Section 1.32 of the Plan and as used
7 throughout the Plan is the date the Court enters this Order.

8 77. All state or local government officials or agents are directed to forego the
9 collection of any tax or assessment described in this Order or in Bankruptcy Code § 1146(c) and
10 to accept for filing or recordation any of the instruments or other documents described in this
11 Order or in Bankruptcy Code § 1146(c) without the payment of any such tax or assessment.

12 78. The stay in effect in the Chapter 11 Cases under Bankruptcy Code § 362(a)
13 continues to be effective until the Effective Date, and at that time will be dissolved and of no
14 further effect, subject to the permanent injunction provided in the Plan and this Order.

15 79. Under Bankruptcy Code §§ 1123(a) and 1142(a), this Order and the Plan apply
16 and are enforceable notwithstanding any otherwise applicable non-bankruptcy law.

17 80. The failure to include specifically any particular provision of the Plan in this
18 Order does not diminish or impair the efficacy of that provision; the Court intends by this Order
19 to confirm and approve the Plan and all its provisions in their entirety, as modified only by this
20 Order.

21 81. The Debtors and their counsel are authorized and directed to do any acts and to
22 execute any documents necessary and appropriate to implement the terms of the Plan.

23 82. All objections to confirmation of the Plan, to the extent not already withdrawn or
24 resolved by this Order and its revisions to the Plan, are **OVERRULED**.

25 83. The provisions of this Order are nonseverable and mutually dependent.

26 84. The Effective Date of the Plan is 11 days after entry of this Confirmation Order.
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85. In accordance with the Settlement, on the Effective Date, Reorganized TFS must make a distribution of cash on account of each General Unsecured Claim that is an Allowed Claim on the Effective Date in an amount not less than 43% of the principal amount of the Allowed Claim.

Dated: August ____, 2006

HON. REDFIELD T. BAUM, SR.
CHIEF UNITED STATES BANKRUPTCY JUDGE

GRANVILLE