

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

TRUE VALUE COMPANY, L.L.C., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-12337 (KBO)

(Jointly Administered)

**Proposed Objection Deadline:
February 21, 2025 at 4:00 p.m. (ET)**

**Proposed Hearing Date:
February 27, 2025 at 1:00 p.m. (ET)**

**DEBTORS' MOTION FOR ENTRY OF AN ORDER
(A) APPOINTING JAMES P. CARROLL AS THE AUTHORIZED
REPRESENTATIVE OF RETIREES OR THEIR BENEFICIARIES UNDER
11 U.S.C. §§ 105(A) AND 1114 AND (B) GRANTING RELATED RELIEF**

True Value Company, L.L.C. and certain of its affiliates (collectively, the “Debtors”) hereby move (this “Motion”) the United States Bankruptcy Court for the District of Delaware (the “Court”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”). In support of this Motion, the Debtors respectfully represent as follows:

PRELIMINARY STATEMENT²

1. The Debtors have sold substantially all of their assets and are now operating with limited personnel to facilitate the Debtors’ wind-down. One of the Debtors’ remaining tasks is bringing these cases to an orderly conclusion. As such, the Debtors are in the process of soliciting votes on their Plan and expect to seek Plan confirmation in the coming weeks. In parallel with

¹ The Debtors in these chapter 11 cases, along with the last four digits of their respective tax identification numbers, are as follows: True Value Company, L.L.C. (9896); TV Holdco II, L.L.C. (2272); TV TSLC, L.L.C. (7025); TV GPMC, L.L.C. (8136); True Value Retail, L.L.C. (7946); TrueValue.com Company, L.L.C. (6386); True Value Virginia, L.L.C. (9197); and Distributors Hardware, L.L.C. (8106). The address of the Debtors’ corporate headquarters is 8600 W. Bryn Mawr Ave. Chicago, IL 60631.

² Capitalized terms used but not otherwise defined in the Preliminary Statement shall have the meanings ascribed to them elsewhere in this Motion.

their Plan process, the Debtors will seek to address “retiree benefits” plans as such term is defined in the Bankruptcy Code and related claims. As part of their showing that the Plan is adequately funded, the Debtors also intend to put forth evidence at the confirmation hearing and seek appropriate relief from the Court in the confirmation order with respect to their proposed resolution of such benefits and claims.

2. As provided more fully in the Disclosure Statement, the Debtors believe that most of the Retiree Plans are unvested and therefore unilaterally terminable in the Debtors’ discretion after the Effective Date. *See In re Visteon Corp.*, 612 F.3d 210, 236 (3d Cir. 2010). No such prepetition claims or Administrative Claims were submitted by the Bar Date (or thereafter). The Debtors nevertheless intend to provide for a post-emergence claims resolution process to determine and address any claims under unvested Retiree Plans that arise prior to the Effective Date. This process would be administered by a disinterested fiduciary specialist.

3. Certain of the Retiree Plans, however, may be vested and, thus, will need to be administered through a process to modify such benefits pursuant to Section 1114(f) of the Bankruptcy Code or pursuant to applicable non-bankruptcy law following the Effective Date, and the interests of the beneficiaries of such plans would be greatly served by the appointment of an independent fiduciary in connection therewith.

4. Section 1114(f) of the Bankruptcy Code directs the Debtors to negotiate with an “authorized representative” of affected Retiree Parties if the Debtors seek to modify or terminate any retiree benefits. Section 1114(b) through (d) provides that such authorized representative is to be either a labor organization or a committee of retirees appointed by the U.S. Trustee by court order. Here, all of the participants in the Retiree Plans are non-union retirees or their beneficiaries, thus ordinarily necessitating the appointment of a retiree committee under Section 1114(d) to act as their authorized representative.

5. To that end, the Debtors filed the Retiree Committee Motion seeking appointment of a retiree committee. The Court entered the Retiree Committee Order authorizing the U.S. Trustee to appoint such a committee and the Debtors provided all information available to them on the Retiree Parties to allow the U.S. Trustee to solicit representatives for the committee.

6. However, despite the Debtors' and the U.S. Trustee's efforts, no Retiree Parties have responded to the U.S. Trustee's inquiry inviting service on a retiree committee. As no committee will be formed, an independent person should be appointed to represent the interests of the Retiree Parties as part of the process of resolving their rights and claims in the light of the Debtors' present, winddown circumstances. The Debtors therefore seek authority to retain the same disinterested specialist fiduciary whom they intend to engage to address any claims under the unvested Retiree Plans also to represent the interests of the Retiree Parties in connection with a pre-confirmation process under Section 1114 or, alternatively a similar process under applicable non-bankruptcy law post-Effective Date (the "Fiduciary"). Specifically, if such a Fiduciary is appointed, the Debtors would negotiate a settlement pursuant to Section 1114 in respect of the Ongoing Retiree Plans under which the Debtors would reserve, for the Fiduciary's subsequent distribution to eligible beneficiaries, the net present cash value of their future entitlements under such plans.³ The funds for such a reserve have been agreed to be set aside under the Cash Collateral Order for such purpose, with any surplus to be paid to the Prepetition Lenders.

7. The appointment of an independent fiduciary for such purposes has been authorized under similar circumstances where no retiree committee could be formed and the debtor was in winddown mode. *See In re Westmoreland Coal Co.*, No. 18-35672 (DRJ) (Bankr. S.D. Tex. Jan. 2, 2019), ECF No. 943.

³ If such a settlement were agreed, the Fiduciary would administer a process for beneficiaries to claim entitlement to their portion of such reserve and facilitate payments from the reserve to such beneficiaries.

8. Because the proposed hearing to consider confirmation of the Plan is rapidly approaching, the Debtors have little time to pursue the proposed Section 1114 process and, accordingly, the need to appoint such a representative is urgent. For the reasons explained below, the Debtors respectfully request that the Court promptly appoint James P. Carroll as a disinterested, third-party fiduciary to represent all affected Retiree Parties in the Section 1114 process.

RELIEF REQUESTED

9. By this Motion, the Debtors seek entry of the Proposed Order (a) appointing James P. Carroll as the authorized representative of all Retiree Parties pursuant to Sections 105(a) and 1114 of title 11 of the United States Code (the “Bankruptcy Code”), and (b) granting related relief.

JURISDICTION AND VENUE

10. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157(a)–(b)(1) and 1334(b) and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A). Venue of the Chapter 11 Cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

11. The statutory and legal predicates for the relief requested herein are Sections 105(a) and 1114(b), (c) and (d) of the Bankruptcy Code.

12. Pursuant to Local Bankruptcy Rule 9013-1(f), the Debtors consent to the entry of a final order with respect to this Motion if it is determined that this Court would lack Article III power to enter such final order absent the consent of the parties.

BACKGROUND

I. The Chapter 11 Cases

13. On October 14, 2024 (the “Petition Date”), each Debtor commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code. The Debtors’ cases (the “Chapter 11 Cases”) are being jointly administered.

14. The Debtors continue to operate their business and manage their properties as debtors and debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

15. On October 23, 2024, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed, pursuant to Section 1102 of the Bankruptcy Code, an official committee of unsecured creditors (the “Committee”) [Docket No. 144]. No other trustee or examiner has been appointed in the Chapter 11 Cases.

16. The Debtors sold substantially all of their assets (the “Sale”) during the Chapter 11 Cases to Do it Best Corp. (“Do it Best”), pursuant to an order dated November 13, 2024 [Docket No. 411]. The Sale closed on November 22, 2024.

17. Before the Sale, the Company was one of the world’s leading hardline wholesalers, serving approximately 4,500 stores worldwide. A globally recognized retail brand, the Company provided customers in over 55 countries an expansive product set across key categories such as Hardware, Lumber & Building, Outdoor Living & Tools, and Plumbing & Heating. The Company’s business operations, corporate and capital structure, and the events leading up to the filing of the Chapter 11 Cases are described in greater detail in the *Declaration of Kunal S. Kamlani in Support of Chapter 11 Petitions and First Day Papers* [Docket No. 18] (the “First Day Declaration”).⁴

⁴ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Plan, or the Disclosure Statement, as applicable.

18. On January 21, 2025, the Debtors filed the *Joint Chapter 11 Plan of True Value Company, L.L.C. and Its Debtor Affiliates* [Docket No. 796] (as may be amended or otherwise modified, the “Plan”) and the accompanying disclosure statement [Docket No. 797] (as may be amended or otherwise modified, the “Disclosure Statement”).

II. The Retiree Plans

19. As described in greater detail in the *Motion of Debtors for Entry of an Order Authorizing and Directing the U.S. Trustee to Appoint an Official Committee of Retired Employees* [Docket No. 116] (the “Retiree Committee Motion”), the Debtors provide certain self-funded (a) postemployment medical, dental, and vision benefits, (b) life insurance benefits, and (c) death benefits to approximately 300 former employees in one or more plans (collectively, the “Retiree Plans” or “OPEB”) to the Debtors’ retirees and their eligible beneficiaries (collectively, the “Retiree Parties”).

20. After review of the Retiree Plans and related information, the Debtors believe that most of the Retiree Plans are unvested and therefore unilaterally terminable in their discretion after the effective date of the Plan (the “Effective Date”). In connection with confirmation of the Plan, the Debtors intend to establish, for purposes of setting post-Effective Date reserves, that the Debtors may in fact terminate such Retiree Plans after the Effective Date, as the Debtors do not have the means to continue to maintain the Retiree Plans.

21. The Debtors have also determined that certain of the Retiree Plans may be vested, and as such, are not unilaterally terminable after the Effective Date. The potentially vested plans are in respect of (a) postemployment medical (affecting approximately one beneficiary of a retiree) and (b) benefits under one death benefit plan (the so-called “Servistar Plan,” affecting approximately 260 retirees in the aggregate) (together, the “Ongoing Retiree Plans”).

III. The Retiree Committee Motion and the Proposed Fiduciary

22. On October 21, 2024, the Debtors filed the Retiree Committee Motion. On December 3, 2024, the Court entered an order approving the Retiree Committee Motion and authorizing and directing the U.S. Trustee to appoint a retiree committee [Docket No. 655] (the “Retiree Committee Order”).

23. On January 2, 2025, the U.S. Trustee filed the *Statement that Committee of Retired Employees Has Not Been Appointed* [Docket No. 746] (the “U.S. Trustee Statement”), indicating that the U.S. Trustee “has not appointed an official committee of retired employees” because there has been “[n]o retired employee response to the United States Trustee communication/contact for service on the committee.”

24. As no retiree committee has been appointed, the Debtors now intend to seek the appointment of a disinterested, third-party fiduciary pursuant to Section 1114 or Section 105(a) of the Bankruptcy Code to represent the interests of the beneficiaries under all of the Retiree Plans and authorized to negotiate modifications to the Retiree Plans (the “Fiduciary”).

25. If the Court appoints the Fiduciary, the Debtors will, before Confirmation, seek to negotiate a settlement in respect of the Ongoing Retiree Plans under which they pay into a reserve the net present cash value of the future entitlements under such plans. Subject to the Fiduciary’s evaluation of the proposal and Court approval, the Debtors would then fund a reserve with the amount of the settlement. The Fiduciary would also be authorized to engage in a notice and claims resolution process to facilitate paying each bona fide claimant their share of the settlement, which process would be incorporated into the Plan, approved pursuant to the Confirmation Order, and administered following the Effective Date. Such a reserve is provided for under the Cash Collateral Order. Any surplus therein after distributions to eligible beneficiaries and the cost of the Fiduciary’s administration thereof would be paid the Prepetition Lenders.

BASIS FOR RELIEF REQUESTED AND APPLICABLE AUTHORITY

26. Bankruptcy Code Section 1114(e)(1) generally requires that a chapter 11 debtor “timely pay and . . . not modify any retiree benefits.” 11 U.S.C. § 1114(e)(1). To modify retiree benefits before the effective date of its chapter 11 plan a debtor must first satisfy the requirements specified in Section 1114(g). Relevant here, these requirements include the debtor’s prior delivery of a proposal to modify retiree benefits to the “authorized representative” of such retirees and the authorized representative’s refusal, without good cause, to accept such proposal. *See id.* § 1114(g)(1)–(2). The authorized representative of non-unionized retirees with whom the debtor must negotiate is a committee of retirees appointed by U.S. Trustee by court order. *See id.* § 1114(d).

27. Here, all of the Retiree Party participants in the Retiree Plans are non-union retirees or their beneficiaries, thus ordinarily necessitating the appointment of a retiree committee under Bankruptcy Code Section 1114(d) to act as their authorized representative. *See id.* As set forth herein and in the Retiree Committee Motion, the Debtors have intended to seek relief under Section 1114 to modify the Ongoing Retiree Plans and all associated OPEB obligations because, following the Sale, the Debtors have no means to continue the Retiree Plans.

28. Before entry of the Retiree Committee Order, the Debtors provided the U.S. Trustee with the names and contact information of the Retiree Parties that were available to the Debtors. As the Debtors understand, following the entry of the Retiree Committee Order, the U.S. Trustee has used this information to solicit Retiree Parties to serve on the retiree committee. However, despite the entry of the Retiree Committee Order, the U.S. Trustee has been unable to form a retiree committee due to lack of responses. Accordingly, the Debtors have been unable to commence their Section 1114 process from a technical standpoint—despite being ready and willing to do so—due to the lack of a retiree committee to deliver the requisite proposal to.

29. Following the filing of the U.S. Trustee's Statement, the Debtors and their advisors have been diligently working to identify an alternative that would allow them to address their OPEB liabilities in the context of the Chapter 11 Cases, and submit that the appointment of the Fiduciary is consistent with the intent of Bankruptcy Code Section 1114 and in the best interests of the Retiree Parties, the estates, and all other parties-in-interest.

30. In *Westmoreland Coal*, the U.S. Trustee was also unable to appoint an official retiree committee, as no retirees were willing to serve, and the debtors instead sought appointment of a guardian *ad litem* to serve as representative for the retirees, who received benefits pursuant to the Coal Act. *In re Westmoreland Coal Co.*, No. 18-35672 (DRJ) (Bankr. S.D. Tex. Dec. 26, 2018), ECF No. 886. Overruling the objection by certain Coal Act funds to such relief, the bankruptcy court appointed a committee, pursuant to Section 105 of the Bankruptcy Code, comprised of three fiduciaries to carry out the intent of Section 1114. *See* Hr'g Tr. 10:6–23, *In re Westmoreland Coal Co.*, No. 18-35672 (DRJ) (Bankr. S.D. Tex. Jan. 2, 2019), ECF No. 943. The Debtors submit that appointment of the Fiduciary as requested herein would serve the same purpose.

31. The Debtors therefore propose that the Fiduciary be appointed to represent the interests of the beneficiaries of the Ongoing Retiree Plans pursuant to Section 1114 of the Bankruptcy Code, or, as warranted, for the post-Effective Date resolution of such rights and claims. As noted above, the Debtors are contemplating a present-value cash buyout of any future entitlements under the Ongoing Retiree Plans. The Fiduciary would be authorized to negotiate modifications to any Ongoing Retiree Plans under Section 1114, including within the construct of such proposal, for which the Fiduciary's task would encompass an evaluation of the Debtors' calculations and the fairness of the overall settlement to the Retiree Parties. As the Debtors also propose to engage the Fiduciary to represent and administer the post-Effective Date claims

resolution process for pre-emergence claims arising under the unvested Retiree Plans as well as the Ongoing Plans, the Debtors submit that no Retirees Parties will be prejudiced by the appointment of the Fiduciary to engage with the Debtors in connection with a settlement pursuant to Section 1114. Accordingly, prompt appointment of the Fiduciary is necessary to ensure that the proposed Section 1114 proceeds expeditiously, fairly, and in the best interests of the Debtors' estates and stakeholders.

32. Specifically, the role of the Fiduciary under this proposed process will include, among other things: (a) undertaking additional steps to further confirm current contact information for the Retiree Parties for facilitating payments; (b) negotiating modifications to the Retiree Plans under which the estates would fund a reserve with the estimated net present value of the entitlements under the Ongoing Retiree Plans; (c) designing, prior to Plan confirmation, a claims resolution process for the Ongoing Retiree Plans to facilitate payment to each eligible beneficiary the net present value of their benefit; (d) reflecting the settlement and claims resolution process in any necessary Plan-related pleadings, including materials for the Plan Supplement, any amended versions of the Plan, and the proposed Confirmation Order; and (e) once incorporated in the Plan and approved by the Confirmation Order, administering the claims resolution process after the Plan's Effective Date, with any surplus upon the conclusion of the claims resolution process reverting to the Debtors' Prepetition Lenders as contemplated by the Cash Collateral Order.

33. The Debtors have identified James P. Carroll as a disinterested third-party specialist to serve as the Fiduciary. Mr. Carroll is both qualified and willing to assume this role. Mr. Carroll, the Managing Member of Carroll Services LLC, is a financial professional with 40 years' experience at all levels of financial and corporate management, with the last 20 years of his career spent specializing in distressed situations and serving as chief restructuring officer, chief wind-down officer, plan administrator and liquidating trustee in numerous large chapter 11 cases.

Mr. Carroll is entirely independent of the Debtors. A copy of Mr. Carroll's engagement letter, detailing the proposed services as Fiduciary, is attached hereto as **Exhibit B**.

34. The Debtors believe that the tasks for which Mr. Carroll, if approved, would be responsible can be completed quickly, in limited time, with the limited budget set forth in the engagement letter. Courts in prior cases have noted the limited role and appropriate expense where a retiree committee is appointed. *See, e.g., In re Accuride Corp.*, No. 24-12289 (Bankr. D. Del. Nov. 20, 2024), ECF No. 319 (limiting the retiree committee's aggregate fees and expenses to \$250,000); *In re Delphi Corp.*, No. 05-44481, 2009 WL 637315, at *9 (Bankr. S.D.N.Y. Mar. 10, 2009) (limiting the retiree committee's budget to \$200,000); *In re Patriot Coal Corp.*, No. 12-51502 (Bankr. E.D. Mo. Feb. 27, 2013), ECF No. 3004 (limiting the retiree committee's total fees and expenses to \$250,000).

35. Here, given the lack of a retiree committee, the Debtors believe appointment of the Fiduciary will provide a straightforward, efficient, and cost-effective path forward to pursue the Section 1114 process described above.

36. Given the Debtors' limited liquidity and that the Plan confirmation process is already underway, time is of the essence. Accordingly, the Debtors respectfully submit that appointment of Mr. Carroll as soon as possible is in the best interests of the Debtors, their estates, and their stakeholders, including, notably, the Retiree Parties.

NOTICE

37. Notice of this Motion will be provided to: (a) the U.S. Trustee; (b) the Committee; (c) the Internal Revenue Service; (d) the Office of the United States Attorney for the District of Delaware; (e) counsel to the Prepetition Lenders; (f) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (g) all parties entitled to notice pursuant to Local Rule 2002-1(b).

Given the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

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CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order granting the relief requested herein and such other and further relief as is just and proper.

Dated: February 14, 2025

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Kristin L. McElroy

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EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

**TRUE VALUE COMPANY, L.L.C., *et al.*,

Debtors.¹**

Chapter 11

Case No. 24-12337 (KBO)

(Jointly Administered)

Related Docket No. _____

**ORDER (A) APPOINTING JAMES P. CARROLL AS THE AUTHORIZED
REPRESENTATIVE OF RETIREES OR THEIR BENEFICIARIES UNDER
11 U.S.C. §§ 105(A) AND 1114 AND (B) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the Debtors for entry of an order: (a) appointing James P. Carroll as the Fiduciary and authorized representative of the Retiree Parties pursuant to Sections 105 and 1114 of the Bankruptcy Code, and (b) granting related relief; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Motion having been given under the circumstances, and it appearing that no other or further notice is necessary; and it appearing that the relief requested in the Motion is in the best interests

¹ The Debtors in these chapter 11 cases, along with the last four digits of their respective tax identification numbers, are as follows: True Value Company, L.L.C. (9896); TV Holdco II, L.L.C. (2272); TV TSLC, L.L.C. (7025); TV GPMC, L.L.C. (8136); True Value Retail, L.L.C. (7946); TrueValue.com Company, L.L.C. (6386); True Value Virginia, L.L.C. (9197); and Distributors Hardware, L.L.C. (8106). The address of the Debtors’ corporate headquarters is 8600 W. Bryn Mawr Ave. Chicago, IL 60631.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

of the Debtors, their estates, their creditors, affected Retiree Parties, and other parties-in-interest; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby,

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is GRANTED as set forth herein.
2. The Court appoints James P. Carroll as the Fiduciary and designates Mr. Carroll as the authorized representative of the Retiree Parties under the Ongoing Retiree Plans for purposes of Bankruptcy Code Section 1114.
3. The Fiduciary is further authorized to assist any chapter 11 plan administrator appointed in these Chapter 11 Cases specifically in making any distributions to any Retiree Parties, whether pursuant to Section 1114 or otherwise (including pursuant to applicable non-bankruptcy law) following the Effective Date.
4. The Debtors are authorized to take or refrain from taking any action necessary or appropriate to implement the terms of, and the relief granted in, this Order.
5. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
6. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the interpretation, implementation, and enforcement of this Order.

EXHIBIT B

Engagement Letter

INDEPENDENT FIDUCIARY AGREEMENT

This agreement (the “Agreement”) confirms and sets forth the terms and conditions of the agreement between Carroll Services LLC (“Carroll Services”) and True Value Company, L.L.C. a Delaware limited liability company (the “Company”), including the scope of the services to be performed and the basis of compensation for those services. Upon execution of this letter by each of the parties below, this letter will constitute an agreement by and among the Company and Carroll Services (this “Agreement”).

RECITALS

The Company sponsors certain benefit plans that provide for certain health and welfare benefits for former employees of the Company (such plans, the “OPEB Plans”).

On October 14, 2024, the Company, along with certain of its affiliates and subsidiaries (collectively, the “Debtors”), commenced cases (the “Chapter 11 Cases”) under chapter 11 of the United States Bankruptcy Code (“Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

The Company has requested Carroll Services to provide James P Carroll as the Independent Fiduciary with respect to the OPEB Plans (the “Fiduciary”), including as an independent fiduciary appointed under Section 1114 and/or 105(a) of the Bankruptcy Code for the OPEB Plan participants or an independent fiduciary for the OPEB Plans retained by any plan administrator in the Chapter 11 Cases.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained herein, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Company and the Fiduciary agree as follows:

1. Effective Date. This Agreement will constitute an agreement between the Company and the Fiduciary effective as of [February [●], 2025] (the “Effective Date”), and subject to (a) the execution and delivery of (i) this Agreement by the parties below, which includes the Indemnification Agreement (defined below), and (ii) the appropriate corporate resolutions (the “Resolutions”) appointing the Fiduciary; and (b) approval of the Debtors’ entry into this Agreement by the Bankruptcy Court.
2. Duties.
 - (a) Fiduciary agrees to represent the interests of the OPEB Plan participants as an independent fiduciary, including as an independent fiduciary appointed under Section 1114 and/or 105(a) of the Bankruptcy Code or otherwise pursuant to applicable non-bankruptcy law.
 - (b) Fiduciary agrees to negotiate in good faith with the Company to reach mutually agreeable modifications to the OPEB Plans as soon as reasonably practicable,

and, if possible, prior to confirmation of a plan of reorganization in the Chapter 11 Cases.

- (c) To the extent liabilities under the OPEB Plans are not resolved pursuant to a process under Section 1114 of the Bankruptcy Code, with respect to the OPEB Plans that the Company determines are vested under applicable law, Fiduciary agrees to take all actions reasonably necessary to distribute benefits under such OPEB Plans as soon as reasonably practicable, which actions may occur following confirmation of a plan of reorganization in or emergence from the Chapter 11 Cases.
- (d) Fiduciary agrees to serve in good faith, and in compliance with the fiduciary duties imposed under the Bankruptcy Code, ERISA, and applicable law. The Fiduciary agrees to devote as much time as is necessary to perform completely his duties.
- (e) This Agreement does not restrict the Fiduciary from serving in a similar capacity for other companies, and it shall not be a conflict if the Fiduciary has or makes investments into competitors of the Company or otherwise advises other companies (whether competitors to the Company or not); provided, that, the Fiduciary shall continue to comply and be bound by the terms of this Agreement, including, without limitation, the confidentiality provisions set forth in with Section 5 hereof, during such engagement or activity described in the foregoing.

3. Compensation.

- (a) Subject to (b) below, in exchange for the Fiduciary's services, the Fiduciary shall be compensated at a rate of \$525 per hour.
- (b) The Fiduciary will be reimbursed on a monthly basis for the documented, reasonable out-of-pocket expenses pre-approved by the Company incurred in connection with its such as travel and lodging. Such reimbursements are payable by the Company within 14 days upon receipt of the invoice.

4. Term.

- (a) This Agreement will commence on the Effective Date until such Fiduciary's resignation or his replacement or removal, or termination of this Agreement (such period the "Term"). Upon expiration of the Term, any fees and expenses due to the Fiduciary shall be promptly paid by the Company (including fees and expenses that accrued prior to but are invoiced subsequent to such resignation, replacement or removal). For the avoidance of doubt, nothing herein shall restrict or otherwise prohibit the Company from removing the Fiduciary.
- (b) With or without cause, the Company and the Fiduciary may each terminate this Agreement at any time upon ten days written notice, subject, in each case, to any term or provision expressly to the contrary contained in any order of the

Bankruptcy Court entered in the Chapter 11 Cases in connection with a process under Section 1114 of the Bankruptcy Code or otherwise relating to the OPEB Plans.

- (c) Upon expiration of the Term, the Fiduciary shall (a) provide or return to the Company and any all Company property, including reports, files, work product, email messages, data and all Company documents and materials belonging to the Company and stored in any fashion including, but not limited to those that constitute or contain any Confidential Information, that are in the possession or control of Fiduciary, and (b) delete or destroy all copies of any such documents and materials not returned to the Company that remain in Fiduciary's possession or control.
 - (d) "Confidential Information" means data and information relating to the Company and which has material value to the Company and is not generally known publicly, including to its competitors. Confidential Information does not include any data or information that has been voluntarily disclosed to the public by the Company or that has been independently developed and disclosed by others, or that otherwise enters the public domain through lawful means.
- 5. Confidentiality. In the course of the Term, the Fiduciary will have access to and learn about Confidential Information. The Fiduciary and Carroll Services agree not to divulge to third parties or use such Confidential Information other than to perform on their obligations under this Agreement. The Fiduciary and Carroll Services understand and acknowledge that Confidential Information and the Company's ability to reserve it for the exclusive knowledge and use of the Company is of great competitive advantage to the Company, and that improper use or disclosure of the Confidential Information by Fiduciary and/or Carroll Services will cause irreparable harm to the Company, for which remedies at law will not be adequate and may also cause the Company to incur financial costs, loss of business advantage, and liability to third parties, among other things
- 6. Indemnification/Limitations on Liability. The Company shall indemnify, defend, and hold harmless the Fiduciary, to the full extent allowed by the law of the State of Delaware, and as provided by, or granted pursuant to, any charter provision, bylaw provision, agreement (including, without limitation, the Indemnification Agreement executed herewith), vote of stockholders or disinterested directors or otherwise, both as to action in the Fiduciary's official capacity and as to action in another capacity while holding such office. In addition, the attached indemnification agreement (the "Indemnification Agreement") is incorporated herein, and the termination of this Agreement or the engagement shall not affect those provisions, which shall remain in full force and effect. For the avoidance of doubt, the foregoing shall not apply to claims or losses arising from the Fiduciary's gross negligence, willful misconduct or fraud.
- 7. The Company expressly acknowledges that it has entered into this Agreement and assumed the obligations imposed on the Company under this Agreement in order to induce the Fiduciary to serve as a Fiduciary of the Company and the Fiduciary is relying

on this Agreement in serving in such capacity. The Company further agrees to stipulate in any court proceeding that the Company is bound by all of the provisions of this Agreement. The Fiduciary acknowledges that he has no expectation of any additional compensation, royalties, or other payment of any kind not otherwise referenced herein in connection herewith; that he will not be subject to undue hardship by reason of his full compliance with the terms and conditions of this Agreement or the Company's enforcement thereof; and that this Agreement is not a contract of employment and shall not be construed as a commitment by either of the parties to continue an employment relationship for any certain period of time.

8. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware applicable to contracts made and to be performed in such state without giving effect to the principles of conflicts of laws. Any legal action arising out of or relating to this Agreement shall be brought in the state or federal courts located in Delaware, and the Fiduciary hereby agrees to the exclusive personal jurisdiction of such courts in any such action and waives any defense of inconvenient forum to the maintenance of an action in the above-referenced courts in Delaware.
9. Binding on Successors; Amendment. This Agreement shall be binding upon the Company and its successors and assigns, and shall inure to the benefit of the Fiduciary. The Company shall require any successor corporation (whether by merger, consolidation, or otherwise) by written agreement in form and substance satisfactory to the Fiduciary, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place. This Agreement incorporates the entire understanding of the parties with respect to the subject matter hereof and may not be amended or modified except in writing executed by the Company and the Fiduciary.
10. Miscellaneous. If any provision of this Agreement shall be declared invalid or illegal, for any reason whatsoever, then, notwithstanding such invalidity or illegality, the remaining terms and provisions of this Agreement shall remain in full force and effect in the same manner as if the invalid or illegal provision had not been contained herein. The article headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal E-SIGN Act of 2000, e.g., www.docusign.com), or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. Except as provided elsewhere herein, this Agreement sets forth the entire agreement of the parties with respect to its subject matter and supersedes all prior agreements, promises, covenants, arrangements, communications, representations, or warranties, whether oral or written, by any Fiduciary, employee or representative of any party to this Agreement with respect to such subject matter.

[SIGNATURE PAGE TO FOLLOW]

Agreed to this ____ day of February, 2025.

James P Carroll
Carroll Services LLC:

The Company:

True Value Company, L.L.C.

By:

By: _____
Name:

INDEMNIFICATION AGREEMENT

Capitalized terms not defined in this Indemnification Agreement (the “Indemnification Agreement”) have the meaning ascribed to them in the Agreement to which this Indemnification Agreement is attached.

As of the Effective Date, Carroll Services LLC has been appointed as an Independent Fiduciary with respect to the OPEB Plans (the “Fiduciary”).

1. Indemnity

To induce Carroll Services LLC to agree to accept an appointment as an Fiduciary, the Company hereby agrees to hold harmless, defend, and indemnify the Fiduciary in respect of all actions, proceedings, accounts, claims, contributions, demands, awards, costs, expenses (including, attorneys’ fees), judgments or verdicts against the Fiduciary arising out of or related to the Agreement, the Fiduciary’s appointment, and/or the Fiduciary’s service to the Company.

2. Limitation of Indemnity

The only limitation that shall exist upon the Company’s obligations pursuant to this Indemnification Agreement is that the Company shall not be obligated to make any payment to the Fiduciary that is determined by final non-appealable order of a court of competent jurisdiction to have resulted from the gross negligence or wilful misconduct of the Fiduciary.