

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

In re:

NUMBER HOLDINGS, INC. *et al.*,¹

Debtors.

)
) Chapter 11
)

) Case No. 24-10719 (JKS)
)

) (Joint Administration Requested)
)
)
)

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL
ORDERS (I) AUTHORIZING AND APPROVING PROCEDURES
FOR REJECTION AND ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES, (II) AUTHORIZING ABANDONMENT
OF CERTAIN PERSONAL PROPERTY, AND (III) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (the “Debtors” and, together with their non-Debtor affiliates, “99 Cents”) respectfully state the following in support of this motion (the “Motion”):

Background

1. On April 7, 2024 (the “Petition Date”),² the Debtors commenced these chapter 11 cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (as amended, the “Bankruptcy Code”). The Debtors are authorized to continue operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have requested that their cases be consolidated for procedural purposes only and administered jointly. No trustee,

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: (i) Number Holdings, Inc. (1463); (ii) 99 Cents Only Stores LLC (1605); (iii) 99 Cents Only Stores Texas, Inc. (1229); (iv) 99 Cents PropCo LLC (7843); (v) 99 Cents HoldCo LLC (3987); and (vi) Bargain Wholesale LLC (8030). The Debtors’ principal offices are located at 1730 Flight Way, Suite 100, Tustin, CA 92782.

² Certain of the Debtors’ voluntary petitions were filed on the docket shortly after midnight (ET) on April 8, 2024.

examiner, or official committee has been appointed in these Chapter 11 Cases.

2. The Debtors operate approximately 371 extreme value retail stores in California, Arizona, Nevada, and Texas under the business names “99¢ Only Stores” and “The 99 Store.” The Debtors offer their customers a wide array of quality products—from everyday household items, to fresh produce, deli, and other basic grocery items, to an assortment of seasonal and party merchandise—much of which is still priced at or below 99.99 cents. Headquartered in Tustin, California, the Debtors currently have over 10,800 part-time and full-time employees.

3. The Debtors commenced these Chapter 11 Cases to implement a timely and efficient process to maximize the value of the Debtors’ estates for the benefit of all stakeholders. Through these Chapter 11 Cases, the Debtors intend to continue an orderly and value-maximizing wind down of their inventory, while conducting a marketing and sale process for their remaining assets on a timeline consistent with their store closures.

4. For further information about the Debtors, their business operations, and the circumstances that have led to the filing of these Chapter 11 Cases, the Debtors refer to the *Declaration of Christopher J. Wells in Support of Chapter 11 Petitions and First Day Motions of Number Holdings, Inc. and Its Affiliated Debtors and Debtors in Possession* (the “First Day Declaration”) filed simultaneously herewith.”³

Jurisdiction and Venue

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* of the United States District Court for the District of Delaware, dated as of February 29, 2012.

³ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the First Day Declaration.

6. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Debtors consent, pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final order by this Court in connection with this Motion to the extent that it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

7. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

8. The bases for the relief requested herein are sections 105(a), 363, 365, and 554 of the Bankruptcy Code, Rules 2002, 6004, 6006, and 6007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 2002-1.

Relief Requested

9. By this Motion, the Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** (the “Proposed Interim Order”) and **Exhibit B** (the “Proposed Final Order”), respectively, (i) authorizing and approving certain procedures for rejecting, assuming, and assuming and assigning executory contracts and unexpired leases (each, a “Contract” and, collectively, the “Contracts”), (ii) authorizing the Debtors to abandon their personal property located on or installed in the leased premises that are subject to a rejected Contract, and (iii) granting certain related relief. In addition, the Debtors request that this Court schedule a hearing (the “Final Hearing”) to consider entry of the Proposed Final Order no later than thirty (30) days from the date hereof.

The Rejection and Assumption and Assignment Procedures

I. The Debtors’ Executory Contracts and Unexpired Leases

10. The Debtors are party to thousands of Contracts, which include, among other agreements, contracts with vendors for the supply of goods and services, contracts related to the

operation of the Debtors' businesses, and leases with respect to real and personal property.⁴ The Debtors are in the process of evaluating all of the Contracts to determine whether such Contracts should be (i) rejected, as they are burdensome to the Debtors' estates, or (ii) assumed and assigned to third parties (including those that the Debtors may assume as amended following consensual negotiations with the applicable counterparties), as they are valuable to the Debtors' estates. As set forth in more detail in the First Day Declaration, this analysis is well underway, and a process has been commenced to market the Debtors' non-residential real property leases as well as some of their other asserts.

11. Absent the relief requested in this Motion, the Debtors would be required to file separate motions to reject or assume and assign individual Contracts, resulting in substantial costs to, and administrative burdens on, the Debtors' estates—not to mention the attendant burden on the Court's docket. Accordingly, to minimize such costs and burdens, the Debtors request approval of the following omnibus procedures.

II. The Proposed Rejection Procedures

12. The Debtors seek approval of the following procedures with respect to rejection of the Contracts (the "Rejection Procedures"):

- a. ***Rejection Notice.*** The Debtors shall file one or more notices, substantially in the form attached hereto as **Exhibit C** (the "Rejection Notice"), indicating the Debtors' intent to reject a Contract(s) pursuant to section 365 of the Bankruptcy Code, which Rejection Notice shall set forth, among other things: (i) the Contract(s) to be rejected; (ii) the Debtor(s) party to such Contract(s); (iii) the names and addresses of the counterparties to such Contract(s) (each, a "Rejection Counterparty"); (iv) the proposed effective date of rejection for each such Contract(s) (each, a "Rejection Date"); (v) if any such Contract is a lease, the Debtors' property to be abandoned, if any, and a description thereof; (vi) any known third parties having an interest in any property located at the premises subject to a rejected Contract, including personal property, furniture, fixtures, and

⁴ Approximately 335 of the Contracts may be considered leases of non-residential real property subject to section 365(d)(4) of the Bankruptcy Code.

equipment (“FF&E”); and (vii) the deadlines and procedures for filing objections to the Rejection Notice (as set forth below). The Rejection Notice may list multiple Contracts; *provided that* the number of counterparties to Contracts listed on each Rejection Notice shall be limited to no more than 100.

- b. ***Service of the Rejection Notice.*** The Debtors will cause each Rejection Notice to be served: (i) via electronic mail, if known, and by overnight delivery service upon the Rejection Counterparties affected by the Rejection Notice at the notice address provided in the applicable Contract (and upon such Rejection Counterparty’s counsel, if known) and all known parties who may have any interest in any Abandoned Property; and (ii) by first class mail, email, or fax, upon the Notice Parties (as defined below).
- c. ***Objection Procedures.*** Any party objecting to a proposed rejection must file and serve a written objection⁵ so as to actually be received by the following parties no later than seven (7) days after the date the Debtors file and serve the relevant Rejection Notice (the “Rejection Objection Deadline”): (i) the Debtors, 1730 Flight Way, Suite 100, Tustin, CA 92782; (ii) proposed counsel to the Debtors, (a) Milbank LLP, 55 Hudson Yards, New York, NY 10001, Attn: Dennis F. Dunne (ddunne@milbank.com); Michael W. Price (mprice@milbank.com); Lauren C. Doyle (ldoyle@milbank.com); Brian Kinney (bkinney@milbank.com); and James McIntyre (jmcintyre@milbank.com), and (b) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware 19899-1347, Attn: Robert J. Dehney, Sr. (rdehney@morrisnichols.com); Matthew O. Talmo (mtalmo@morrisnichols.com); and Jonathan M. Weyand (jweyand@morrisnichols.com); (iii) counsel to the DIP Agent, DIP Lender, and FILO Agent, Proskauer Rose LLP, Eleven Times Square, New York, NY 10036, Attn: David M. Hillman (dhillman@proskauer.com); (iv) counsel to the ABL Facility Agent, Sidley Austin LLP, One South Dearborn, Chicago, IL 60603, Attn: Dennis M. Twomey (dtwomey@sidley.com) and Jackson T. Garvey (jgarvey@sidley.com), and 350 South Grand Avenue, Los Angeles, CA 90071, Attn: Anna Gumpert (agumpert@sidley.com); (v) counsel to the Ad Hoc Group of 2026 Noteholders, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attn: Jeffrey D. Saferstein (jeffrey.saferstein@weil.com) and Chase Bentley (chase.bentley@weil.com); (vi) counsel to certain 2026 Noteholders, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019, Attn: Brian S. Hermann (bhermann@paulweiss.com) and Brian Bolin (bbolin@paulweiss.com); (vii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Rosa Sierra-Fox (rosa.sierra-fox@usdoj.gov); and (viii) any statutory committee appointed in these Chapter 11 Cases (collectively, the “Objection Service Parties”).
- d. ***No Objection Timely Filed.*** If no objection to the rejection of a Contract listed in a Rejection Notice is timely filed, such Contract shall be rejected as of the

⁵ An objection to the rejection of any particular Contract shall not constitute an objection to the rejection of any other Contract listed on the same Rejection Notice.

applicable Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the applicable Rejection Counterparty agree; *provided, however*, that the Rejection Date for a lease of non-residential real property shall not occur until the later of (i) the Rejection Date set forth in the Rejection Notice and (ii) the date the Debtors relinquish control of the applicable premises by notifying the affected landlord in writing of the Debtors' surrender of the premises and either (1) turning over keys, key codes, and security codes, if any, to the landlord or (2) notifying the landlord in writing that the keys, key codes, and security codes, if any, are not available, but the landlord may rekey the leased premises; *provided, further* that the Rejection Date for a lease of non-residential real property rejected pursuant to these Rejection Procedures shall not occur earlier than the date the Debtors filed and served the applicable Rejection Notice.

- e. ***Unresolved Timely Objections.*** If an objection to a Rejection Notice is timely filed and properly served as specified above and not withdrawn or resolved, the Debtors shall schedule a hearing on such objection and shall provide at least seven (7) days' notice of such hearing to the applicable Rejection Counterparty and the other Objection Service Parties. If such objection is overruled or withdrawn, the applicable Contract(s) shall be rejected as of the applicable Rejection Date set forth in the Rejection Notice, such other date to which the Debtors and the applicable Rejection Counterparty agree, or as ordered by the Court.
- f. ***No Application of Security Deposits.*** If the Debtors have deposited monies with a Rejection Counterparty as a security deposit or similar arrangement, such Rejection Counterparty may not set off or recoup or otherwise use such deposit to reduce its rejection damages, if any, without the prior approval of the Court, unless the Debtors and the applicable Rejection Counterparty otherwise agree.
- g. ***Proofs of Claim.*** Claims arising out of the rejection of Contracts, if any, must be filed on or before the later of (i) the general bar date for filing proofs of claim established in the Chapter 11 Cases, if any, and (ii) 30 days after the later of (1) if no objection is timely filed, the Rejection Objection Deadline, and (2) if an objection is timely filed, the date that all such objections have either been overruled or withdrawn. If no proof of claim is timely filed, the applicable Rejection Counterparty shall be forever barred from asserting a claim for damages arising from the rejection and from participating in any distributions on account of such claim that may be made in these Chapter 11 Cases.

III. The Proposed Assumption and Assignment Procedures.

13. The Debtors seek authorization for the following procedures with respect to the assumption and assignment of the Contracts (the "Assumption and Assignment Procedures"):

- a. ***Assumption Notice.*** The Debtors shall file a notice, substantially in the form attached hereto as **Exhibit D** (the "Assumption Notice"), indicating their intent to assume or assume and assign a Contract(s) pursuant to section 365 of the

Bankruptcy Code, which shall set forth, among other things: (i) the Contract(s) to be assumed or assumed and assigned; (ii) the Debtor(s) party to such Contract(s); (iii) the names and addresses of the counterparties to such Contract(s) (each, an “Assumption Counterparty”); (iv) the identity of the proposed assignee of each such Contract (the “Assignee”), if applicable; (v) the effective date of the assumption for each such Contract (the “Assumption Date”); (vi) the proposed cure amount, if any for each such Contract; (vii) a description of any material amendments to each such Contract made outside of the ordinary course of business; and (viii) the deadlines and procedures for filing objections to the Assumption Notice (as set forth below). The Assumption Notice may list multiple Contracts; *provided that* the number of counterparties to the Contracts listed on each Assumption Notice shall be limited to no more than 100.

- b. ***Service of the Assumption Notice.*** The Debtors will cause the Assumption Notice to be served (i) via electronic mail, if known, and by overnight delivery upon the Assumption Counterparties (and their counsel, if known) affected by the Assumption Notice at the address set forth in the notice provision of the applicable Contract and on each Assignee, if applicable; and (ii) by first class mail, email, or fax upon the Notice Parties (as defined below).
- c. ***Evidence of Adequate Assurance.*** To the extent the Contract that the Debtors seek to assume or assume and assign is a lease of non-residential real property, the Debtors will cause evidence of adequate assurance of future performance to be served with the Assumption Notice via electronic mail, if known, and by overnight delivery upon the applicable Assumption Counterparties at the address set forth in the notice provision of the applicable Contract (and upon the Assumption Counterparties’ counsel, if known, by electronic mail). To the extent such Contract is not a lease of non-residential real property, the Debtors shall serve (by electronic mail, if requested) a counterparty to such Contract with evidence of adequate assurance of future performance as soon as reasonably practicable upon such counterparty’s written request to the Debtors’ proposed counsel.
- d. ***Objection Procedures.*** A party objecting to the proposed assumption or assumption and assignment of a Contract (including as to the proposed cure amount or evidence of adequate assurance of future performance) must file and serve a written objection⁶ so as to actually be received by the Objection Service Parties no later than seven (7) days after the date the Debtors file and serve the relevant Assumption Notice.
- e. ***No Objection.*** If no objection to the assumption (or assignment, if applicable) of a Contract is timely filed, such Contract shall be assumed as of the Assumption Date set forth in the applicable Assumption Notice or such other date as the Debtors and the applicable Assumption Counterparty agree and the proposed cure amount shall be binding on the relevant Assumption Counterparty and no amount

⁶ An objection to the assumption (and assignment, as applicable) of any particular Contract listed on an Assumption Notice shall not constitute an objection to the assumption of any other Contract listed on such Assumption Notice.

in excess thereof shall be payable for cure purposes; provided that the Assumption Date for a lease of nonresidential real property shall not occur earlier than the date the Debtors filed and served the applicable Assumption Notice.

- f. ***Unresolved Timely Objection.*** If an objection to an Assumption Notice is timely filed and properly served as specified above and not withdrawn or resolved, the Debtors shall schedule a hearing on such objection and shall provide at least seven (7) days' notice of such hearing to the applicable Assumption Counterparty and the other Objection Service Parties. If such objection is overruled or withdrawn, the applicable Contract shall be assumed or assumed and assigned as of the Assumption Date set forth in the Assumption Notice or such other date to which the Debtors and the Assumption Counterparty have agreed, or as ordered by the Court.

14. In addition, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Debtors request that the assignment of any Contract pursuant to the Assumption Procedures (i) be free and clear of (a) all liens (and any liens shall attach to the proceeds of such assignment in the same order and priority subject to all existing defenses, claims, setoffs, and rights) and (b) any and all claims (as that term is defined in section 101(5) of the Bankruptcy Code), obligations, demands, guaranties of or by the Debtors, debts, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these Chapter 11 cases, and whether imposed by agreement, understanding, law, equity, or otherwise, including, without limitation, claims and encumbrances that purport to give to any party a right or option to effect any forfeiture, modification, or termination of the interest of any Debtor or Assignee, as the case may be, in the Contract(s) (but only in connection with the assignment by the Debtor to the Assignee) (all of the foregoing, collectively, the "Encumbrances"), *provided that* any such assignment shall not be free and clear of any accrued but unbilled or not due rent and charges under a lease of non-residential real property including adjustments, reconciliations and indemnity obligations, liability for which shall be assumed by the Debtors or the applicable Assignee, as agreed by and among the Debtors and the applicable Assignee; and (ii) constitute a legal, valid, and effective transfer of such Contract and vest the applicable Assignee with all rights,

titles, and interests to the applicable Contracts.⁷ For the avoidance of doubt, all provisions of the applicable assigned Contract, including any provision limiting assignment, shall be binding on the applicable Assignee.

IV. Proposed Abandonment Procedures

15. Finally, the Debtors seek authorization for the following procedures (the “Abandonment Procedures” and, together with the Rejection Procedures and the Assumption and Assignment Procedures, the “Procedures”) with respect to abandoning their personal property and FF&E that may be located on the leased premises that are subject to a rejected Contract (the “Abandoned Property”):

- a. At any time on or before the applicable Rejection Date, the Debtors may remove or abandon any of the personal property of FF&E that may be located on the leased premises that are subject to a rejected Contract.
- b. The Debtors shall generally describe the Abandoned Property in the Rejection Notice.
- c. Absent a timely objection, any and all of the Debtors’ personal property and FF&E located on the leased premises on the Rejection Date of the applicable lease of nonresidential real property shall be deemed abandoned pursuant to section 554 of the Bankruptcy Code, as is, effective as of the Rejection Date.
- d. Landlords may, in their sole discretion and without further notice or order of this Court, utilize and/or dispose of such property without liability to the Debtors or any third parties and, to the extent applicable, the automatic stay is modified to allow such disposition.

Basis for Relief

I. The Proposed Procedures Are in the Best Interests of the Debtors’ Estates.

16. Implementing procedures for the efficient rejection and assumption or assignment and assignment of the Contracts is critical to the success of these Chapter 11 Cases. As described

⁷ Certain of the Contracts may contain provisions that restrict, prohibit, condition, or limit the assumption and/or assignment of such Contract. The Debtors reserve all rights with respect to the enforceability of such provisions.

more fully in the Store Closing Motion filed contemporaneously herewith, the Debtors have determined that, in order to maximize the value to their estates, by April 30, 2024, they will close approximately 125 Stores (the “Initial Store Closings”), and by May 31, 2024, they will close the remaining approximately 246 Stores (the (“Final Store Closings” and, together with the Initial Store Closings, the “Store Closings”). Therefore, in order to avoid having to pay an additional month’s rent with respect to the 125 stores included in the Initial Store Closings, the Debtors have to market and make a determination as to whether to reject, assume, or assume and assign the applicable leases in the first 21 days of these Chapter 11 Cases. Any delay in rejecting or assuming and assigning the real property leases associated with those 125 stores would add approximately \$3.1 million per month of unnecessary administrative expenses. Moreover, the Debtors are more likely to achieve the most value for their leases while the stores are operating and not while they are sitting dark. Given the scarce funding available to fund these Chapter 11 Cases, and the need to maximize recoveries for all stakeholders, the Debtors believe that it is necessary to obtain immediate approval of the Procedures.

17. Given the large number of Contracts to which the Debtors are a party, establishing the Procedures will streamline the administration of these Chapter 11 Cases and enhance the efficiency of the chapter 11 process by eliminating substantial legal expenses that would otherwise be incurred if multiple hearings were held on separate motions with respect to every Contract that the Debtors seek to reject, assume, or assume and assign. The Procedures are reasonable and fair to Contract counterparties because they afford all parties in interest the opportunity to be heard with respect to the rejection, assumption, or assumption and assignment of the Contracts (and abandonment of property related thereto).

18. Courts in this district often enter orders approving similar relief. *See, e.g., In re Yellow Corp.*, No. 23-11069 (CTG) (Bankr. D. Del. Sept. 14, 2023) (entering an order approving procedures to reject executory contracts and unexpired leases); *In re PGX Holdings, Inc.*, No. 23-10718 (CTG) (Bankr. D. Del. July 19, 2023) (same); *In re Town Sports Int'l, LLC*, No. 20-12168 (CSS) (Bankr. D. Del. Oct. 13, 2020) (same); *In re Bluestem Brands, Inc.*, No. 20-10566 (MFW) (Bankr. D. Del. Apr. 13, 2020) (same); *In re Z Gallerie, LLC*, No. 19-10488 (LSS) (Bankr. D. Del. Apr. 9, 2019).

II. Rejection, Assumption, or Assumption and Assignment of Contracts in Accordance with the Procedures is a Valid Exercise of the Debtors' Business Judgment.

19. Section 365(a) of the Bankruptcy Code provides that a debtor in possession, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). The decision to assume or reject an executory contract or unexpired lease is a matter within the “business judgment” of the debtor. *See Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1099 (2d Cir. 1993); *see also Nat’l Labor Relations Bd. v. Bildisco and Bildisco (In re Bildisco)*, 682 F.2d 72, 79 (3d Cir. 1982) (“The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the ‘business judgment’ test.”) (internal citation omitted). The business judgment standard mandates that a court approve a debtor’s business decision unless the decision is the product of bad faith, whim, or caprice. *See Lubrizol Enlers., Inc. v. Richmond Metal Finishes*, 756 F.2d 1043, 1047 (4th Cir. 1985), *cert. denied*, 475 U.S. 1057 (1986).

20. Courts generally will not second-guess a debtor’s business judgment concerning the assumption or rejection of an executory contract or unexpired lease. Further, the business judgment standard is satisfied when a debtor determines that assumption or rejection will benefit the estate. *See In re Trans World Airlines, Inc.*, No. 01-0056, 2001 Bankr. LEXIS 722, at *7-8

(Bankr. D. Del. Mar. 16, 2001) (noting that the standard under section 365 requires consideration of the benefit of the rejection to the debtor's estate); *see also In re TS Indus., Inc.*, 117 B.R. 682, 685 (Bankr. D. Utah 1990); *In re Del Grosso*, 115 B.R. 136, 138 (Bankr. N.D. Ill. 1990). As with the assumption or rejection of an executory contract or an unexpired lease under section 365, any amendment to an executory contract or unexpired lease that may be deemed outside the ordinary course of business is authorized under section 363 of the Bankruptcy Code when there is a "sound business purpose" that justifies such action. *See Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *see also In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 176 (Bankr. D. Del. 1991) (noting that the Third Circuit has adopted the "sound business judgment" standard for transactions under section 363 of the Bankruptcy Code).

21. The Debtors have determined, in their sound business judgment, that the rejection, assumption, or assumption and assignment of Contracts in accordance with the Procedures is and will be in the best interest of the Debtors' estates: the Procedures will avoid substantial legal expense and the use of the Court's time that would result if a motion seeking authority to reject, assume, or assume and assign each individual Contract were filed and a hearing held on every such motion. The Debtors submit that the information provided on the Rejection Notices and Assumption Notices will provide the Court, the applicable Contract counterparties, and other parties in interest with sufficient information to establish that the Debtors are entitled, in their sound business judgment, to reject, assume, or assume and assign the applicable Contract. Accordingly, the Court should approve the Procedures.

III. The Assignment of Contracts Should Be Approved Free and Clear of Encumbrances.

22. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear of another party's interest in such property if: (i) applicable nonbankruptcy law permits a free

and clear sale; (ii) the holder of the interest consents; (iii) the interest is a lien and the sale price of the property exceeds the value of all liens on the property; (iv) the interest is in bona fide dispute; or (v) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. 11 U.S.C. § 363(f).

23. Executory contracts and unexpired leases are property of a debtor's estate. To the extent the Debtors assume and assign a Contract pursuant to the Assumption Procedures, such assignment is tantamount to a sale of estate property, and may be transferred free and clear of all Encumbrances so long as one of the criteria under section 363(f) of the Bankruptcy Code is satisfied. The Debtors propose that if a party in interest fails to timely object to an assumption and assignment consistent with the Assumption Procedures, such party shall be deemed to "consent" to such assumption and assignment within the meaning of section 363(f)(2) of the Bankruptcy Code. If a party in interest timely objects to an assumption and assignment consistent with the Assumption Procedures, and such objection is not withdrawn or resolved, the Debtors shall file a notice of hearing to consider the objection; if such objection is overruled or withdrawn, the Contract(s) in question shall be assumed. The requirements of section 363(f) of the Bankruptcy Code would thus be satisfied for any proposed "transfer" of a Contract free and clear of all Encumbrances.

24. Courts in this district and others have granted similar authority. *See, e.g., In re Bluestem Brands, Inc.*, No. 20-10566 (MFW) (Bankr. D. Del. Apr. 13, 2020); *In re Extraction Oil & Gas, Inc.*, No. 20-11548 (CSS) (Bankr. D. Del. July 13, 2020) (same); *In re Z Gallerie, LLC*, No. 19-10488 (LSS) (Bankr. D. Del. Apr. 9, 2019) (authorizing the assignment of contracts and leases free and clear of liens and claims); *In re PES Holdings, LLC*, No. 19-11626 (LSS) (Bankr. D. Del. Sept. 17, 2019) (same); *In re VER Technologies Holdco, LLC*, No. 18-10834 (KG) (Bankr.

D. Del. May 4, 2019) (same).

IV. Abandonment of the Debtors' Personal Property Is Proper Under Section 554(a).

25. With respect to the Debtors' request for authority to abandon property, the Debtors submit that the standard set forth in section 554(a) of the Bankruptcy Code is satisfied. Section 554(a) provides that a debtor in possession may abandon, subject to court approval, "property of the estate that . . . is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a). Before authorizing abandonment of property, a bankruptcy court must find that either: (a) the property is burdensome to the estate or (b) the property is both of inconsequential value and inconsequential benefit to the estate. *See, e.g., Midlantic Nat'l Bank v. N.J. Dep't of Env'tl. Prot.*, 474 U.S. 494, 497 (1986); *Hanover Ins. Co. v. Tyco Indus., Inc.*, 500 F.2d 654, 657 (3d Cir. 1974) (stating that a trustee "may abandon his claim to any asset, including a cause of action, he deems less valuable than the cost of asserting that claim"); *In re Contract Research Sols., Inc.*, Case No. 12-11004 (KJC), 2013 WL 1910286, at *4 (Bankr. D. Del. May 1, 2013) ("[A debtor] need only demonstrate that [it] has exercised sound business judgment in making the determination to abandon."); *Matter of Boogaard*, 89 B.R. 397, 397 (Bankr. D. Del. 1988).

26. The Debtors intend to sell all of their owned assets, but they may determine that the costs associated with holding or selling certain property exceeds the proceeds that will be realized upon its sale, or that such property is not sellable at all. Under such circumstances, these assets would be both "burdensome to the estate" and "of inconsequential value and benefit to the estate." The Debtors respectfully submit that abandonment of such property is in the best interests of their estates and request that the Court authorize them to do so where the Debtors determine, in their business judgment, that abandonment is the appropriate course of action. Accordingly, the Debtors should be authorized to abandon any such assets without incurring liability to any person or entity.

V. The Procedures Satisfy Due Process.

27. The counterparties to the Contracts will not be prejudiced by the Procedures because, upon receipt of an Assumption Notice or a Rejection Notice, such counterparties will have received advance notice of the Debtors' intent to reject, assume, or assume and assign their respective Contract and of the effective date of such assumption or rejection. *See, e.g., In re Thane Ina, Inc.*, 586 B.R. 540, 548 (Bankr. D. Del. 2018) (finding that the requirements of the Bankruptcy Code are meant to protect the interests of the non-debtor parties to executory contracts, so they may avoid having to deal with an assumption of which they had no notice and which they had no opportunity to contest); *In re Mid Region Petroleum, Inc.*, 111 B.R. 968, 970 (Bankr. N.D. Okla. 1990) (holding effective date of rejection of leases was the date the trustee gave notice to lessor of intent to reject); *In re Carlisle Homes, Inc.*, 103 B.R. 524, 535 (Bankr. D.N.J. 1988) (finding debtor may reject executory contract by clearly communicating intention to reject). Additionally, in the case of unexpired leases of nonresidential real property, the Debtors will likely vacate the premises before or upon serving the Rejection Notice, thereby allowing the counterparties to take possession and relet the property promptly. *See, e.g., Adelphia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602, 608-09 (2d Cir. 2007) (holding bankruptcy court did not abuse its discretion in finding balance of equities favored making rejection of a nonresidential lease of real property retroactive to date tenant vacated premises, as tenant's action provided landlord with opportunity to relet premises); *In re New Valley Corp*, No. 98-982, 2000 U.S. Dist. LEXIS 12663, at *44-46 (D.N.J. Aug. 31, 2000) (holding bankruptcy court properly exercised its discretion in adjusting the effective date of rejection from the date the court signed the order authorizing rejection to the date on which the debtor vacated and the landlord exercised control over the property); *In re Amber's Stores*, 193 B.R. 819, 827 (Bankr. N.D. Tex. 1996) (holding that lease at issue should be deemed rejected as

of the petition date due to equities of the case where debtor turned over keys and vacated premises and served motion to reject lease as soon as possible).

28. As a procedural matter, “[a] proceeding to assume, reject, or assign an executory contract or unexpired lease . . . is governed by Rule 9014.” Fed. R. Bankr. P. 6006(a). Bankruptcy Rule 9014 provides that: “In a contested matter . . . , not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought.” Fed. R. Bankr. P. 9014(a). The notice and hearing requirements for contested matters under Bankruptcy Rule 9014 are satisfied if appropriate notice and an opportunity for hearing are given in light of the particular circumstances. *See* 11 U.S.C. § 102(1)(A) (defining “after notice and a hearing” or a similar phrase to mean such notice and an opportunity for hearing “as [are] appropriate in the particular circumstances”).

29. Under Bankruptcy Rule 6006(f), a debtor may seek authority to assume or reject multiple executory contracts or unexpired leases in one motion, subject to Bankruptcy Rule 6006(e). *See* Fed. R. Bankr. P. 6006(f). Bankruptcy Rule 6006(f) sets forth six requirements that motions to assume or reject multiple executory contracts or unexpired leases must satisfy. These requirements are procedural in nature. A motion to assume or reject multiple executory contracts or unexpired leases that are not between the same parties shall:

- i. state in a conspicuous place that parties receiving the omnibus motion should locate their names and their contracts or leases listed in the motion;
- ii. list parties alphabetically and identify the corresponding contract or lease;
- iii. specify the terms, including the curing of defaults, for each requested assumption or assignment;
- iv. specify the terms, including the identity of each assignee and the adequate assurance of future performance by each assignee, for each requested assignment;

- v. be numbered consecutively with other omnibus motions to assume, assign, or reject executory contracts or unexpired leases; and
- vi. be limited to no more than 100 executory contracts or unexpired leases.

Fed. R. Bankr. P. 6006(f).

30. The clear purpose of Bankruptcy Rule 6006(f), as amended, is to protect the due process rights of counterparties to the Contracts while conserving estates' resources. Counterparties must be able to readily determine whether their Contracts are being assumed or rejected. The Procedures satisfy Bankruptcy Rule 6006(f), including the 100-contract or lease limit set forth in subsection (vi) thereof.

31. In accordance with Bankruptcy Rule 6007(a), the Debtors will provide the U.S. Trustee and other parties in interest with the requisite notice and an opportunity to object to any proposed abandonment of property.

32. As a result, the Procedures afford Contract counterparties and all other parties in interest their due process rights by providing notice and the opportunity to be heard. Moreover, Court oversight is maintained in the event of an objection. For the foregoing reasons, the Procedures should be approved, and the Debtors should be authorized to reject, assume, and assume and assign the Contracts consistent with the terms of the Procedures.

33. In sum, the Procedures will minimize costs to the Debtors' estates and reduce the burden on this Court's docket while protecting parties in interest by providing notice and the opportunity to object and obtain a hearing. Moreover, the Debtors have determined that the Procedures are an appropriate means to protect and maximize the value of the Debtors' estates.

The Requirements of Bankruptcy Rule 6003 Are Satisfied

34. Bankruptcy Rule 6003 empowers a court to grant relief within the first twenty-one (21) days after the Petition Date "to the extent that relief is necessary to avoid

immediate and irreparable harm.” Fed. R. Bankr. P. 6003. For the reasons stated herein, the relief requested herein is integral to the Debtors’ ability to operate their business in the ordinary course, preserve their going concern value and their assets during the immediate postpetition period, and ultimately, maximize the value of their estates for the benefit of all stakeholders. Failure to obtain the requested relief during the first twenty-one (21) days of these Chapter 11 Cases would severely disrupt the Debtors’ operations at this critical juncture. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and that the relief requested should be granted immediately.

Waiver of Bankruptcy Rule 6004(a), 6004(h), and 6006(d)

35. To better implement the foregoing, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). The Debtors also seek to waive the 14-day stay required of any assignment of a Contract under Bankruptcy Rule 6006(d). As set forth above, the relief requested herein is essential to prevent immediate and irreparable damage to the Debtors’ operations, going concern value, and their efforts to pursue a resolution to these Chapter 11 Cases.

Reservation of Rights

36. Nothing contained in the Motion or any actions taken by the Debtors pursuant to the relief requested thereon, is intended (and should not be construed) as: (i) an admission as to the amount of, basis for, priority, or validity of any particular claim under the Bankruptcy Code or applicable non-bankruptcy law; (ii) a waiver of the Debtors’ or any other party’s right to dispute any claim; (iii) a promise or requirement to pay any particular claim; (iv) an implication or admission that any particular claim is of a type described in this Motion or the order granting the relief requested herein; (v) a request or authorization to assume, adopt, or reject any agreement,

contract, or lease pursuant to section 365 of the Bankruptcy Code; (vi) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on the property of, the Debtors' estates, and the Debtors expressly reserve their rights to contest the extent, validity, or perfection, or to seek avoidance of any and all liens, security interests, and other encumbrances; or (vii) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law.

Notice

37. The Debtors will provide notice of this Motion to the following parties or their respective counsel: (i) the Office of the U.S. Trustee for the District of Delaware (the "U.S. Trustee"); (ii) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (iii) counsel to the DIP Agent, the DIP Lender, and the FILO Agent; (iv) counsel to the ABL Facility Agent; (v) Wilmington Trust, National Association, as Trustee and Notes Collateral Agent pursuant to 2026 Notes Indenture; (vi) counsel to the *Ad Hoc* Group of 2026 Noteholders; (vii) counsel to certain 2026 Noteholders; (viii) RCB Equities #1, LLC, as lender pursuant the PropCo Promissory Note; (ix) the United States Securities and Exchange Commission; (x) the Internal Revenue Service; (xi) the state attorneys general for all states in which the Debtors conduct business; (xii) the United States Attorney's Office for the District of Delaware; and (xiii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors respectfully submit that such notice is sufficient, and no other or further notice is required or necessary.

WHEREFORE, the Debtors respectfully request that this Court (i) enter the Proposed Interim Order, substantially in the form attached hereto, (ii) schedule the Final Hearing, (iii) after the Final Hearing, enter the Proposed Final Order, substantially in the form attached hereto, (iv) and grant such other relief as this Court deems appropriate under the circumstances

Dated: April 8, 2024
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Robert J. Dehney

Robert J. Dehney, Sr. (No. 3578)
Matthew O. Talmo (No. 6333)
Jonathan M. Weyand (No. 6959)
Erin L. Williamson (No. 7286)
1201 N. Market Street, 16th Floor
P.O. Box 1347
Wilmington, Delaware 19899-1347
Telephone: (302) 658-9200
Facsimile: (302) 658-3989
Email: rdehney@morrisnichols.com
mtalmo@morrisnichols.com
jweyand@morrisnichols.com
ewilliamson@morrisnichols.com

- and -

MILBANK LLP

Dennis F. Dunne, Esq. (*pro hac vice* pending)
Michael W. Price, Esq. (*pro hac vice* pending)
Lauren C. Doyle, Esq. (*pro hac vice* pending)
Brian Kinney, Esq. (*pro hac vice* pending)
55 Hudson Yards
New York, New York 10001
Telephone: (212) 530-5000
Facsimile: (212) 530-5219
Email: ddunne@milbank.com
mprice@milbank.com
ldoyle@milbank.com
bkinney@milbank.com

Proposed Co-Counsel for Debtors in Possession

Exhibit A

Proposed Interim Order

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

In re:

NUMBER HOLDINGS, INC. *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 24-10719 (JKS)
)
) (Jointly Administered)
)
) **Re: D.I. __**
)

**INTERIM ORDER (I) AUTHORIZING AND APPROVING PROCEDURES
FOR REJECTION AND ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES, (II) AUTHORIZING ABANDONMENT
OF CERTAIN PERSONAL PROPERTY, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (the “Debtors”) for entry of an interim order: (i) authorizing and approving certain procedures for rejecting, assuming, and assuming and assigning executory contracts and unexpired leases (each, a “Contract” and, collectively, the “Contracts”), (ii) authorizing the Debtors to abandon their personal property located on or installed in the leased premises that are subject to a rejected Contract, and (iii) granting certain related relief, all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* of 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 in this district is proper pursuant to 28

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: (i) Number Holdings, Inc. (1463); (ii) 99 Cents Only Stores LLC (1605); (iii) 99 Cents Only Stores Texas, Inc. (1229); (iv) 99 Cents PropCo LLC (7843); (v) 99 Cents HoldCo LLC (3987); and (vi) Bargain Wholesale LLC (8030). The Debtors’ principal offices are located at 1730 Flight Way, Suite 100, Tustin, CA 92782

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

U.S.C. §§ 1408 and 1409; and this Court having found that the notice of the Motion and of the opportunity to be heard at the hearing thereon were appropriate under the circumstances and that no other notice need be provided, except as set forth herein; and this Court having reviewed the Motion and the First Day Declaration and having heard the statements and argument in support of the relief requested at a hearing, if any, before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at any Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Motion is granted on an interim basis as set forth herein (this “Interim Order”).
2. The following Rejection Procedures are approved in connection with rejecting

Contracts:

- a. ***Rejection Notice.*** The Debtors shall file one or more notices, substantially in the form attached to the Motion as **Exhibit C** (the “Rejection Notice”), indicating the Debtors’ intent to reject a Contract(s) pursuant to section 365 of the Bankruptcy Code, which Rejection Notice shall set forth, among other things: (i) the Contract(s) to be rejected; (ii) the Debtor(s) party to such Contract(s); (iii) the names and addresses of the counterparties to such Contract(s) (each, a “Rejection Counterparty”); (iv) the proposed effective date of rejection for each such Contract(s) (each, a “Rejection Date”); (v) if any such Contract is a lease, the Debtors’ property to be abandoned, if any, and a description thereof; (vi) any known third parties having an interest in any property located at the premises subject to a rejected Contract, including personal property, furniture, fixtures, and equipment (“FF&E”); and (vii) the deadlines and procedures for filing objections to the Rejection Notice (as set forth below). The Rejection Notice may list multiple Contracts; *provided that* the number of counterparties to Contracts listed on each Rejection Notice shall be limited to no more than 100.
- b. ***Service of the Rejection Notice.*** The Debtors will cause each Rejection Notice to be served: (i) via electronic mail, if known, and by overnight delivery service upon the Rejection Counterparties affected by the Rejection Notice at the notice address provided in the applicable Contract (and upon such Rejection Counterparty’s counsel, if known) and all known parties who may have any interest in any Abandoned Property; and (ii) by first class mail, email, or fax, upon the Notice Parties.

- c. **Objection Procedures.** Any party objecting to a proposed rejection must file and serve a written objection³ so as to be actually received by the following parties no later than seven (7) days after the date the Debtors file and serve the relevant Rejection Notice (the “Rejection Objection Deadline”) and promptly serve such objection on the following parties: (i) the Debtors, 1730 Flight Way, Suite 100, Tustin, CA 92782; (ii) proposed counsel to the Debtors, (a) Milbank LLP, 55 Hudson Yards, New York, NY 10001, Attn: Dennis F. Dunne (ddunne@milbank.com); Michael W. Price (mprice@milbank.com); Lauren C. Doyle (ldoyle@milbank.com); Brian Kinney (bkinney@milbank.com); and James McIntyre (jmcintyre@milbank.com), and (b) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware 19899-1347, Attn: Robert J. Dehney, Sr. (rdehney@morrisnichols.com); Matthew O. Talmo (mtalmo@morrisnichols.com); and Jonathan M. Weyand (jweyand@morrisnichols.com); (iii) counsel to the DIP Agent, DIP Lender, and FILO Agent, Proskauer Rose LLP, Eleven Times Square, New York, NY 10036, Attn: David M. Hillman (dhillman@proskauer.com); (iv) counsel to the ABL Facility Agent, Sidley Austin LLP, One South Dearborn, Chicago, IL 60603, Attn: Dennis M. Twomey (dtwomey@sidley.com) and Jackson T. Garvey (jgarvey@sidley.com), and 350 South Grand Avenue, Los Angeles, CA 90071, Attn: Anna Gumport (agumport@sidley.com); (v) counsel to the Ad Hoc Group of 2026 Noteholders, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attn: Jeffrey D. Saferstein (jeffrey.saferstein@weil.com) and Chase Bentley (chase.bentley@weil.com); (vi) counsel to certain 2026 Noteholders, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019, Attn: Brian S. Hermann (bhermann@paulweiss.com) and Brian Bolin (bbolin@paulweiss.com); (vii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Rosa Sierra-Fox (rosa.sierra-fox@usdoj.gov); and (viii) any statutory committee appointed in these Chapter 11 Cases (collectively, the “Objection Service Parties”).
- d. **No Objection Timely Filed.** If no objection to the rejection of a Contract listed in a Rejection Notice is timely filed, such Contract shall be rejected as of the applicable Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the applicable Rejection Counterparty agree; *provided, however*, that the Rejection Date for a lease of non-residential real property shall not occur until the later of (i) the Rejection Date set forth in the Rejection Notice and (ii) the date the Debtors relinquish control of the applicable premises by notifying the affected landlord in writing of the Debtors’ surrender of the premises and either (1) turning over keys, key codes, and security codes, if any, to the landlord or (2) notifying the landlord in writing that the keys, key codes, and security codes, if any, are not available, but the landlord may rekey the leased premises; *provided, further* that the Rejection Date for a lease of non-residential real property rejected

³ An objection to the rejection of any particular Contract shall not constitute an objection to the rejection of any other Contract listed on the same Rejection Notice.

pursuant to these Rejection Procedures shall not occur earlier than the date the Debtors filed and served the applicable Rejection Notice.

- e. ***Unresolved Timely Objections.*** If an objection to a Rejection Notice is timely filed and properly served as specified above and not withdrawn or resolved, the Debtors shall schedule a hearing on such objection and shall provide at least seven (7) days' notice of such hearing to the applicable Rejection Counterparty and the other Objection Service Parties. If such objection is overruled or withdrawn, the applicable Contract(s) shall be rejected as of the applicable Rejection Date set forth in the Rejection Notice, such other date to which the Debtors and the applicable Rejection Counterparty agree, or as ordered by the Court.
- f. ***No Application of Security Deposits.*** If the Debtors have deposited monies with a Rejection Counterparty as a security deposit or similar arrangement, such Rejection Counterparty may not set off or recoup or otherwise use such deposit to reduce its rejection damages, if any, without the prior approval of the Court, unless the Debtors and the applicable Rejection Counterparty otherwise agree.
- g. ***Proofs of Claim.*** Claims arising out of the rejection of Contracts, if any, must be filed on or before the later of (i) the general bar date for filing proofs of claim established in the Chapter 11 Cases, if any, and (ii) 30 days after the later of (1) if no objection is timely filed, the Rejection Objection Deadline, and (2) if an objection is timely filed, the date that all such objections have either been overruled or withdrawn. If no proof of claim is timely filed, the applicable Rejection Counterparty shall be forever barred from asserting a claim for damages arising from the rejection and from participating in any distributions on account of such claim that may be made in these Chapter 11 Cases.

3. The following Assumption and Assignment Procedures are approved in connection with assuming and assuming and assigning Contracts:

- a. ***Assumption Notice.*** The Debtors shall file a notice, substantially in the form attached to the Motion as **Exhibit D** (the "**Assumption Notice**"), indicating their intent to assume or assume and assign a Contract(s) pursuant to section 365 of the Bankruptcy Code, which shall set forth, among other things: (i) the Contract(s) to be assumed or assumed and assigned; (ii) the Debtor(s) party to such Contract(s); (iii) the names and addresses of the counterparties to such Contract(s) (each, an "**Assumption Counterparty**"); (iv) the identity of the proposed assignee of each such Contract (the "**Assignee**"), if applicable; (v) the effective date of the assumption for each such Contract (the "**Assumption Date**"); (vi) the proposed cure amount, if any for each such Contract; (vii) a description of any material amendments to each such Contract made outside of the ordinary course of business; and (viii) the deadlines and procedures for filing objections to the Assumption Notice (as set forth below). The Assumption Notice may list multiple Contracts; *provided that* the number of counterparties to the Contracts listed on each Assumption Notice shall be limited to no more than 100.

- b. ***Service of the Assumption Notice.*** The Debtors will cause the Assumption Notice to be served (i) via electronic mail, if known, and by overnight delivery upon the Assumption Counterparties (and their counsel, if known) affected by the Assumption Notice at the address set forth in the notice provision of the applicable Contract and on each Assignee, if applicable; and (ii) by first class mail, email, or fax upon the Notice Parties.
- c. ***Evidence of Adequate Assurance.*** To the extent the Contract that the Debtors seek to assume or assume and assign is a lease of non-residential real property, the Debtors will cause evidence of adequate assurance of future performance to be served with the Assumption Notice via electronic mail, if known, and by overnight delivery upon the applicable Assumption Counterparties at the address set forth in the notice provision of the applicable Contract (and upon the Assumption Counterparties' counsel, if known, by electronic mail). To the extent such Contract is not a lease of non-residential real property, the Debtors shall serve (by electronic mail, if requested) a counterparty to such Contract with evidence of adequate assurance of future performance as soon as reasonably practicable upon such counterparty's written request to the Debtors' proposed counsel.
- d. ***Objection Procedures.*** A party objecting to the proposed assumption or assumption and assignment of a Contract (including as to the proposed cure amount or evidence of adequate assurance of future performance) must file and serve a written objection⁴ so as to actually be received by the Objection Service Parties no later than seven (7) days after the date the Debtors file and serve the relevant Assumption Notice.
- e. ***No Objection.*** If no objection to the assumption (or assignment, if applicable) of a Contract is timely filed, such Contract shall be assumed as of the Assumption Date set forth in the applicable Assumption Notice or such other date as the Debtors and the applicable Assumption Counterparty agree and the proposed cure amount shall be binding on the relevant Assumption Counterparty and no amount in excess thereof shall be payable for cure purposes; provided that the Assumption Date for a lease of nonresidential real property shall not occur earlier than the date the Debtors filed and served the applicable Assumption Notice.
- f. ***Unresolved Timely Objection.*** If an objection to an Assumption Notice is timely filed and properly served as specified above and not withdrawn or resolved, the Debtors shall schedule a hearing on such objection and shall provide at least seven (7) days' notice of such hearing to the applicable Assumption Counterparty and the other Objection Service Parties. If such objection is overruled or withdrawn, the applicable Contract shall be assumed or assumed and assigned as of the Assumption Date set forth in the Assumption Notice or such other date to which

⁴ An objection to the assumption or assumption and assignment of any particular Contract listed on an Assumption Notice shall not constitute an objection to the assumption or assumption and assignment of any other Contract listed on such Assumption Notice.

the Debtors and the Assumption Counterparty have agreed, or as ordered by the Court.

4. The following Abandonment Procedures are approved with respect to abandoning the Debtors' personal property and FF&E that may be located on the leased premises that are subject to a rejected Contract:

- a. At any time on or before the applicable Rejection Date, the Debtors may remove or abandon any of the personal property of FF&E that may be located on the leased premises that are subject to a rejected Contract.
- b. The Debtors shall generally describe the Abandoned Property in the Rejection Notice.
- c. Absent a timely objection, any and all of the Debtors' personal property and FF&E located on the leased premises on the Rejection Date of the applicable lease of nonresidential real property shall be deemed abandoned pursuant to section 554 of the Bankruptcy Code, as is, effective as of the Rejection Date.
- d. Landlords may, in their sole discretion and without further notice or order of this Court, utilize and/or dispose of such property without liability to the Debtors or any third parties and, to the extent applicable, the automatic stay is modified to allow such disposition.

5. With regard to Contracts to be assigned, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the assignment of any Contract shall (i) be free and clear of (a) all liens (and any liens shall attach to the proceeds of such assignment in the same order and priority subject to all existing defenses, claims, setoffs, and rights) and (b) any and all claims (as that term is defined in section 101(5) of the Bankruptcy Code), obligations, demands, guaranties of or by the Debtors, debts, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise, including, without limitation, claims, and encumbrances (1) that purport to give to any party a right or option to effect any forfeiture, modification, or termination of the interest of any Debtor or Assignee, as the case may be, in the Contract(s), or (2) in respect of any taxes, and (ii) constitute a legal, valid, and

effective transfer of such Contracts and vest the applicable Assignee with all rights, titles, and interests to the applicable Contracts. For the avoidance of doubt, all provisions of the applicable assigned Contract, including any provision limiting assignment, shall be binding on the applicable Assignee.

6. Subject to and conditioned upon the occurrence of a closing with respect to the assumption and assignment of any Contract, and subject to the other provisions of this Interim Order (including the aforementioned Assumption Procedures), the Debtors are hereby authorized in accordance with sections 365(b) and (f) of the Bankruptcy Code to (i) assume and assign to any Assignees the applicable Contracts, with any applicable Assignee being responsible only for the post-closing liabilities under the applicable Contracts except as otherwise provided for in this Interim Order and (ii) execute and deliver to any applicable Assignee such assignment documents as may be reasonably necessary to sell, assign, and transfer such Contract.

7. The Debtors' right to assert that any provisions in the Contract that expressly or effectively restrict, prohibit, condition, or limit the assignment of or the effectiveness of the Contract to an Assignee are unenforceable anti-assignment or ipso facto clauses is fully reserved.

8. The Assignee shall have no liability or obligation with respect to defaults relating to the assigned Contracts arising, accruing, or relating to a period prior to the applicable closing date.

9. The Debtors are hereby authorized, pursuant to section 363(b) of the Bankruptcy Code, to enter into the consensual amendments as set forth in an Assumption Notice.

10. Approval of the Procedures and entry of this Interim Order will not prevent the Debtors from seeking to reject or assume a Contract by separate motion.

11. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (i) an admission as to the validity of any particular claim against the Debtors; (ii) a waiver of the Debtors' rights to dispute any particular claim on any grounds; (iii) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (iv) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (v) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (vi) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the Motion are valid, and the rights of all parties are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. Any payment made pursuant to this Interim Order is not intended and should not be construed as an admission of the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

12. All rights and defenses of the Debtors are reserved and preserved, including all rights and defenses of the Debtors with respect to a claim for damages arising as a result of a Contract rejection, including any right to assert an offset, recoupment, counterclaim, or deduction. In addition, nothing in this Interim Order or the Motion shall limit the Debtors' ability to subsequently assert that any particular Contract is terminated and is no longer an executory contract or unexpired lease, respectively.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion, the Rejection Notices and Assumption Notices.

14. Notwithstanding anything to the contrary contained in the Motion or this Interim Order, any payment to be made, obligation incurred, or relief or authorization granted hereunder shall not be inconsistent with, and shall be subject to and in compliance with, the requirements imposed on the Debtors under the terms of each interim and final order entered by the Court in respect of the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* filed substantially contemporaneously with the Motion (the "DIP Orders"), including compliance with any budget or cash flow forecast in connection therewith (and any permitted variances thereto) and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP Orders.

15. The Motion satisfies the requirements of Bankruptcy Rule 6003(b).

16. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion.

17. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be effective and enforceable immediately upon its entry.

18. The Debtors are authorized to take all actions necessary and appropriate to effectuate the relief granted in this Interim Order.

19. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Exhibit B

Proposed Final Order

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

In re:

NUMBER HOLDINGS, INC. *et al.*,¹

Debtors.

) Chapter 11

) Case No. 24-10719 (JKS)

) (Jointly Administered)

) **Re: D.I. __**

**FINAL ORDER (I) AUTHORIZING AND APPROVING PROCEDURES
FOR REJECTION AND ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES, (II) AUTHORIZING ABANDONMENT
OF CERTAIN PERSONAL PROPERTY, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (the “Debtors”) for entry of a final order: (i) authorizing and approving certain procedures for rejecting, assuming, and assuming and assigning executory contracts and unexpired leases (each, a “Contract” and, collectively, the “Contracts”), (ii) authorizing the Debtors to abandon their personal property located on or installed in the leased premises that are subject to a rejected Contract, and (iii) granting certain related relief, all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* of 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 in this district is proper pursuant to 28

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: (i) Number Holdings, Inc. (1463); (ii) 99 Cents Only Stores LLC (1605); (iii) 99 Cents Only Stores Texas, Inc. (1229); (iv) 99 Cents PropCo LLC (7843); (v) 99 Cents HoldCo LLC (3987); and (vi) Bargain Wholesale LLC (8030). The Debtors’ principal offices are located at 1730 Flight Way, Suite 100, Tustin, CA 92782.

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

U.S.C. §§ 1408 and 1409; and this Court having found that the notice of the Motion and of the opportunity to be heard at the hearing thereon were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and the First Day Declaration and having heard the statements and argument in support of the relief requested at a hearing, if any, before this Court (the “Hearing”); and this Court having entered the Interim Order; and this Court having determined that the legal and factual bases set forth in the Motion and at any Hearing establish just cause for granting the requested relief on a final basis; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

20. The Motion is granted on a final basis as set forth herein (this “Final Order”).
21. The following Rejection Procedures are approved in connection with rejecting Contracts:
 - a. ***Rejection Notice.*** The Debtors shall file one or more notices, substantially in the form attached to the Motion as **Exhibit C** (the “Rejection Notice”), indicating the Debtors’ intent to reject a Contract(s) pursuant to section 365 of the Bankruptcy Code, which Rejection Notice shall set forth, among other things: (i) the Contract(s) to be rejected; (ii) the Debtor(s) party to such Contract(s); (iii) the names and addresses of the counterparties to such Contract(s) (each, a “Rejection Counterparty”); (iv) the proposed effective date of rejection for each such Contract(s) (each, a “Rejection Date”); (v) if any such Contract is a lease, the Debtors’ property to be abandoned, if any, and a description thereof; (vi) any known third parties having an interest in any property located at the premises subject to a rejected Contract, including personal property, furniture, fixtures, and equipment (“FF&E”); and (vii) the deadlines and procedures for filing objections to the Rejection Notice (as set forth below). The Rejection Notice may list multiple Contracts; *provided that* the number of counterparties to Contracts listed on each Rejection Notice shall be limited to no more than 100.
 - b. ***Service of the Rejection Notice.*** The Debtors will cause each Rejection Notice to be served: (i) via electronic mail, if known, and by overnight delivery service upon the Rejection Counterparties affected by the Rejection Notice at the notice address provided in the applicable Contract (and upon such Rejection Counterparty’s counsel, if known) and all known parties who may have any interest in any Abandoned Property; and (ii) by first class mail, email, or fax, upon the Notice Parties.

- c. ***Objection Procedures.*** Any party objecting to a proposed rejection must file and serve a written objection³ so as to be actually received by the following parties no later than seven (7) days after the date the Debtors file and serve the relevant Rejection Notice (the “Rejection Objection Deadline”) and promptly serve such objection on the following parties: (i) the Debtors, 1730 Flight Way, Suite 100, Tustin, CA 92782; (ii) proposed counsel to the Debtors, (a) Milbank LLP, 55 Hudson Yards, New York, NY 10001, Attn: Dennis F. Dunne (ddunne@milbank.com); Michael W. Price (mprice@milbank.com); Lauren C. Doyle (ldoyle@milbank.com); Brian Kinney (bkinney@milbank.com); and James McIntyre (jmcintyre@milbank.com), and (b) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware 19899-1347, Attn: Robert J. Dehney, Sr. (rdehney@morrisnichols.com); Matthew O. Talmo (mtalmo@morrisnichols.com); and Jonathan M. Weyand (jweyand@morrisnichols.com); (iii) counsel to the DIP Agent, DIP Lender, and FILO Agent, Proskauer Rose LLP, Eleven Times Square, New York, NY 10036, Attn: David M. Hillman (dhillman@proskauer.com); (iv) counsel to the ABL Facility Agent, Sidley Austin LLP, One South Dearborn, Chicago, IL 60603, Attn: Dennis M. Twomey (dtwomey@sidley.com) and Jackson T. Garvey (jgarvey@sidley.com), and 350 South Grand Avenue, Los Angeles, CA 90071, Attn: Anna Gumport (agumport@sidley.com); (v) counsel to the Ad Hoc Group of 2026 Noteholders, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attn: Jeffrey D. Saferstein (jeffrey.saferstein@weil.com) and Chase Bentley (chase.bentley@weil.com); (vi) counsel to certain 2026 Noteholders, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019, Attn: Brian S. Hermann (bhermann@paulweiss.com) and Brian Bolin (bbolin@paulweiss.com); (vii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Rosa Sierra-Fox (rosa.sierra-fox@usdoj.gov); and (viii) any statutory committee appointed in these Chapter 11 Cases (collectively, the “Objection Service Parties”).
- d. ***No Objection Timely Filed.*** If no objection to the rejection of a Contract listed in a Rejection Notice is timely filed, such Contract shall be rejected as of the applicable Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the applicable Rejection Counterparty agree; *provided, however*, that the Rejection Date for a lease of non-residential real property shall not occur until the later of (i) the Rejection Date set forth in the Rejection Notice and (ii) the date the Debtors relinquish control of the applicable premises by notifying the affected landlord in writing of the Debtors’ surrender of the premises and either (1) turning over keys, key codes, and security codes, if any, to the landlord or (2) notifying the landlord in writing that the keys, key codes, and security codes, if any, are not available, but the landlord may rekey the leased premises; *provided, further* that the Rejection Date for a lease of non-residential real property rejected

³ An objection to the rejection of any particular Contract shall not constitute an objection to the rejection of any other Contract listed on the same Rejection Notice.

pursuant to these Rejection Procedures shall not occur earlier than the date the Debtors filed and served the applicable Rejection Notice.

- e. ***Unresolved Timely Objections.*** If an objection to a Rejection Notice is timely filed and properly served as specified above and not withdrawn or resolved, the Debtors shall schedule a hearing on such objection and shall provide at least seven (7) days' notice of such hearing to the applicable Rejection Counterparty and the other Objection Service Parties. If such objection is overruled or withdrawn, the applicable Contract(s) shall be rejected as of the applicable Rejection Date set forth in the Rejection Notice, such other date to which the Debtors and the applicable Rejection Counterparty agree, or as ordered by the Court.
- f. ***No Application of Security Deposits.*** If the Debtors have deposited monies with a Rejection Counterparty as a security deposit or similar arrangement, such Rejection Counterparty may not set off or recoup or otherwise use such deposit to reduce its rejection damages, if any, without the prior approval of the Court, unless the Debtors and the applicable Rejection Counterparty otherwise agree.
- g. ***Proofs of Claim.*** Claims arising out of the rejection of Contracts, if any, must be filed on or before the later of (i) the general bar date for filing proofs of claim established in the Chapter 11 Cases, if any, and (ii) 30 days after the later of (1) if no objection is timely filed, the Rejection Objection Deadline, and (2) if an objection is timely filed, the date that all such objections have either been overruled or withdrawn. If no proof of claim is timely filed, the applicable Rejection Counterparty shall be forever barred from asserting a claim for damages arising from the rejection and from participating in any distributions on account of such claim that may be made in these Chapter 11 Cases.

22. The following Assumption and Assignment Procedures are approved in connection with assuming and assuming and assigning Contracts:

- a. ***Assumption Notice.*** The Debtors shall file a notice, substantially in the form attached to the Motion as **Exhibit D** (the "**Assumption Notice**"), indicating their intent to assume or assume and assign a Contract(s) pursuant to section 365 of the Bankruptcy Code, which shall set forth, among other things: (i) the Contract(s) to be assumed or assumed and assigned; (ii) the Debtor(s) party to such Contract(s); (iii) the names and addresses of the counterparties to such Contract(s) (each, an "**Assumption Counterparty**"); (iv) the identity of the proposed assignee of each such Contract (the "**Assignee**"), if applicable; (v) the effective date of the assumption for each such Contract (the "**Assumption Date**"); (vi) the proposed cure amount, if any for each such Contract; (vii) a description of any material amendments to each such Contract made outside of the ordinary course of business; and (viii) the deadlines and procedures for filing objections to the Assumption Notice (as set forth below). The Assumption Notice may list multiple Contracts; *provided that* the number of counterparties to the Contracts listed on each Assumption Notice shall be limited to no more than 100.

- b. ***Service of the Assumption Notice.*** The Debtors will cause the Assumption Notice to be served (i) via electronic mail, if known, and by overnight delivery upon the Assumption Counterparties (and their counsel, if known) affected by the Assumption Notice at the address set forth in the notice provision of the applicable Contract and on each Assignee, if applicable; and (ii) by first class mail, email, or fax upon the Notice Parties.
- c. ***Evidence of Adequate Assurance.*** To the extent the Contract that the Debtors seek to assume or assume and assign is a lease of non-residential real property, the Debtors will cause evidence of adequate assurance of future performance to be served with the Assumption Notice via electronic mail, if known, and by overnight delivery upon the applicable Assumption Counterparties at the address set forth in the notice provision of the applicable Contract (and upon the Assumption Counterparties' counsel, if known, by electronic mail). To the extent such Contract is not a lease of non-residential real property, the Debtors shall serve (by electronic mail, if requested) a counterparty to such Contract with evidence of adequate assurance of future performance as soon as reasonably practicable upon such counterparty's written request to the Debtors' proposed counsel.
- d. ***Objection Procedures.*** A party objecting to the proposed assumption or assumption and assignment of a Contract (including as to the proposed cure amount or evidence of adequate assurance of future performance) must file and serve a written objection⁴ so as to actually be received by the Objection Service Parties no later than seven (7) days after the date the Debtors file and serve the relevant Assumption Notice.
- e. ***No Objection.*** If no objection to the assumption (or assignment, if applicable) of a Contract is timely filed, such Contract shall be assumed as of the Assumption Date set forth in the applicable Assumption Notice or such other date as the Debtors and the applicable Assumption Counterparty agree and the proposed cure amount shall be binding on the relevant Assumption Counterparty and no amount in excess thereof shall be payable for cure purposes; provided that the Assumption Date for a lease of nonresidential real property shall not occur earlier than the date the Debtors filed and served the applicable Assumption Notice.
- f. ***Unresolved Timely Objection.*** If an objection to an Assumption Notice is timely filed and properly served as specified above and not withdrawn or resolved, the Debtors shall schedule a hearing on such objection and shall provide at least seven (7) days' notice of such hearing to the applicable Assumption Counterparty and the other Objection Service Parties. If such objection is overruled or withdrawn, the applicable Contract shall be assumed or assumed and assigned as of the Assumption Date set forth in the Assumption Notice or such other date to which

⁴ An objection to the assumption or assumption and assignment of any particular Contract listed on an Assumption Notice shall not constitute an objection to the assumption or assumption and assignment of any other Contract listed on such Assumption Notice.

the Debtors and the Assumption Counterparty have agreed, or as ordered by the Court.

23. The following Abandonment Procedures are approved with respect to abandoning their personal property and FF&E that may be located on the leased premises that are subject to a rejected Contract:

- a. At any time on or before the applicable Rejection Date, the Debtors may remove or abandon any of the personal property of FF&E that may be located on the leased premises that are subject to a rejected Contract.
- b. The Debtors shall generally describe the Abandoned Property in the Rejection Notice.
- c. Absent a timely objection, any and all of the Debtors' personal property and FF&E located on the leased premises on the Rejection Date of the applicable lease of nonresidential real property shall be deemed abandoned pursuant to section 554 of the Bankruptcy Code, as is, effective as of the Rejection Date.
- d. Landlords may, in their sole discretion and without further notice or order of this Court, utilize and/or dispose of such property without liability to the Debtors or any third parties and, to the extent applicable, the automatic stay is modified to allow such disposition.

24. With regard to Contracts to be assigned, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the assignment of any Contract shall (i) be free and clear of (a) all liens (and any liens shall attach to the proceeds of such assignment in the same order and priority subject to all existing defenses, claims, setoffs, and rights) and (b) any and all claims (as that term is defined in section 101(5) of the Bankruptcy Code), obligations, demands, guaranties of or by the Debtors, debts, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise, including, without limitation, claims, and encumbrances (1) that purport to give to any party a right or option to effect any forfeiture, modification, or termination of the interest of any Debtor or Assignee, as the case may be, in the Contract(s), or (2) in respect of any taxes, and (ii) constitute a legal, valid, and

effective transfer of such Contracts and vest the applicable Assignee with all rights, titles, and interests to the applicable Contracts. For the avoidance of doubt, all provisions of the applicable assigned Contract, including any provision limiting assignment, shall be binding on the applicable Assignee.

25. Subject to and conditioned upon the occurrence of a closing with respect to the assumption and assignment of any Contract, and subject to the other provisions of this Final Order (including the aforementioned Assumption Procedures), the Debtors are hereby authorized in accordance with sections 365(b) and (f) of the Bankruptcy Code to (i) assume and assign to any Assignees the applicable Contracts, with any applicable Assignee being responsible only for the post-closing liabilities under the applicable Contracts except as otherwise provided for in this Final Order and (ii) execute and deliver to any applicable Assignee such assignment documents as may be reasonably necessary to sell, assign, and transfer such Contract.

26. The Debtors' right to assert that any provisions in the Contract that expressly or effectively restrict, prohibit, condition, or limit the assignment of or the effectiveness of the Contract to an Assignee are unenforceable anti-assignment or ipso facto clauses is fully reserved.

27. The Assignee shall have no liability or obligation with respect to defaults relating to the assigned Contracts arising, accruing, or relating to a period prior to the applicable closing date.

28. The Debtors are hereby authorized, pursuant to section 363(b) of the Bankruptcy Code, to enter into the consensual amendments as set forth in an Assumption Notice.

29. Approval of the Procedures and entry of this Final Order will not prevent the Debtors from seeking to reject or assume a Contract by separate motion.

30. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (i) an admission as to the validity of any particular claim against the Debtors; (ii) a waiver of the Debtors' rights to dispute any particular claim on any grounds; (iii) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion; (iv) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (v) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (vi) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the Motion are valid, and the rights of all parties are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. Any payment made pursuant to this Final Order is not intended and should not be construed as an admission of the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

31. All rights and defenses of the Debtors are reserved and preserved, including all rights and defenses of the Debtors with respect to a claim for damages arising as a result of a Contract rejection, including any right to assert an offset, recoupment, counterclaim, or deduction. In addition, nothing in this Final Order or the Motion shall limit the Debtors' ability to subsequently assert that any particular Contract is terminated and is no longer an executory contract or unexpired lease, respectively.

32. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion, the Rejection Notices and Assumption Notices.

33. Notwithstanding anything to the contrary contained in the Motion or this Final Order, any payment to be made, obligation incurred, or relief or authorization granted hereunder shall not be inconsistent with, and shall be subject to and in compliance with, the requirements imposed on the Debtors under the terms of each interim and final order entered by the Court in respect of the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* filed substantially contemporaneously with the Motion (the "DIP Orders"), including compliance with any budget or cash flow forecast in connection therewith (and any permitted variances thereto) and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP Orders.

34. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion.

35. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be effective and enforceable immediately upon its entry.

36. The Debtors are authorized to take all actions necessary and appropriate to effectuate the relief granted in this Final Order.

37. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Exhibit C

Rejection Notice

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

In re:

NUMBER HOLDINGS, INC. *et al.*,¹

Debtors.

)
) Chapter 11

)
) Case No. 24-10719 (JKS)

)
) (Jointly Administered)

)
) Re: D.I. __
)

**NOTICE OF REJECTION OF CERTAIN
EXECUTORY CONTRACTS AND/OR UNEXPIRED
LEASES (AND ABANDONMENT OF PROPERTY RELATED THERETO)**

**PARTIES RECEIVING THIS NOTICE SHOULD LOCATE THEIR NAMES AND
THEIR CONTRACTS OR LEASES ON SCHEDULE 1 ATTACHED HERETO AND
READ THE CONTENTS OF THIS NOTICE CAREFULLY.**

PLEASE TAKE NOTICE that on [●], 2024 the United States Bankruptcy Court for the District of Delaware (the “Court”) entered an [interim / final] order approving procedures for the rejection, assumption, or assumption and assignment of executory contracts and unexpired leases (and abandonment of property related thereto) and granting related relief [D.I. [●]] (the “Procedures Order”).²

PLEASE TAKE FURTHER NOTICE that, pursuant to the Procedures Order and by this written notice (this “Rejection Notice”), the Debtors hereby notify you that they have determined, in the exercise of their business judgment, to reject each contract and lease listed on **Schedule 1** attached hereto (each, a “Contract”), effective as of the date set forth in **Schedule 1** (the “Rejection Date”) or such other date as the Debtors and the counterparty or counterparties to any such Contract agree or as may be ordered by the Court.

PLEASE TAKE FURTHER NOTICE that parties seeking to object to the proposed rejection of any Contract must file and serve a written objection so as to actually be received by the following parties no later than seven (7) days after the date that the Debtors file and serve this Rejection Notice (the “Rejection Objection Deadline”): (i) the Debtors, 1730 Flight Way, Suite

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: (i) Number Holdings, Inc. (1463); (ii) 99 Cents Only Stores LLC (1605); (iii) 99 Cents Only Stores Texas, Inc. (1229); (iv) 99 Cents PropCo LLC (7843); (v) 99 Cents HoldCo LLC (3987); and (vi) Bargain Wholesale LLC (8030). The Debtors’ principal offices are located at 1730 Flight Way, Suite 100, Tustin, CA 92782.

² Capitalized terms used and not otherwise defined herein have the meanings given to them in the Order.

100, Tustin, CA 92782; (ii) proposed counsel to the Debtors, (a) Milbank LLP, 55 Hudson Yards, New York, NY 10001, Attn: Dennis F. Dunne (ddunne@milbank.com); Michael W. Price (mprice@milbank.com); Lauren C. Doyle (ldoyle@milbank.com); Brian Kinney (bkinney@milbank.com); and James McIntyre (jmcintyre@milbank.com), and (b) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware 19899-1347, Attn: Robert J. Dehney, Sr. (rdehney@morrisnichols.com); Matthew O. Talmo (mtalmo@morrisnichols.com); and Jonathan M. Weyand (jweyand@morrisnichols.com); (iii) counsel to the DIP Agent, DIP Lender, and FILO Agent, Proskauer Rose LLP, Eleven Times Square, New York, NY 10036, Attn: David M. Hillman (dhillman@proskauer.com); (iv) counsel to the ABL Facility Agent, Sidley Austin LLP, One South Dearborn, Chicago, IL 60603, Attn: Dennis M. Twomey (dtwomey@sidley.com) and Jackson T. Garvey (jgarvey@sidley.com), and 350 South Grand Avenue, Los Angeles, CA 90071, Attn: Anna Gumport (agumport@sidley.com); (v) counsel to the *Ad Hoc* Group of 2026 Noteholders, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attn: Jeffrey D. Saferstein (jeffrey.saferstein@weil.com) and Chase Bentley (chase.bentley@weil.com); (vi) counsel to certain 2026 Noteholders, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019, Attn: Brian S. Hermann (bhermann@paulweiss.com) and Brian Bolin (bbolin@paulweiss.com); (vii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Rosa Sierra-Fox (rosa.sierra-fox@usdoj.gov); and (viii) any statutory committee appointed in the Chapter 11 Cases.

PLEASE TAKE FURTHER NOTICE that, absent an objection being timely filed, the rejection of each Contract shall become effective on the applicable Rejection Date or such other date as the Debtors and the counterparty or counterparties to any such Contract agree or as may be ordered by the Court.³

PLEASE TAKE FURTHER NOTICE that, if an objection to the rejection of any Contract is timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection. If such objection is overruled or withdrawn, the applicable Contract(s) shall be rejected as of the Rejection Date or such other date as the Debtors and the counterparty or counterparties to any such Contract agree or as may be ordered by the Court.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Procedures Order, if you hold any of the Debtors' monies as a security deposit or other arrangement, you may not set off or recoup or otherwise use such deposit to reduce your rejection damages, if any, without the prior approval of the Court, unless you and the Debtors otherwise agree.

PLEASE TAKE FURTHER NOTICE that, absent timely objection, any and all of the Debtors' personal property and FF&E located on the leased premises on the Rejection Date of the applicable lease of nonresidential real property shall be deemed abandoned pursuant to section 554 of the Bankruptcy Code, as is, effective as of the Rejection Date or such other date as the Debtors and the counterparty or counterparties to any such Contract agree or as may be ordered by the Court. A description of such property is included in **Schedule 1**.

³ An objection to the rejection of any particular Contract will not constitute an objection to the rejection of any other Contract listed in this Rejection Notice. Any objection to the rejection of any particular Contract must identify with specificity the Contract to which it is directed.

PLEASE TAKE FURTHER NOTICE that to the extent you wish to assert a claim on account of the Debtors' rejection of your Contract(s), you must do so on or before the later of (i) the general bar date for filing proofs of claim established in the Chapter 11 Cases, if any, and (ii) 30 days after the later of (A) if no objection is timely filed, the Rejection Objection Deadline, and (B) if an objection is timely filed, the date that all such objections have either been overruled or withdrawn.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO SUBMIT A PROOF OF CLAIM BY THE DEADLINE SET FORTH HEREIN, YOU WILL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM (I) ASSERTING A CLAIM FOR DAMAGES ARISING FROM THE REJECTION OF YOUR CONTRACT AND (II) PARTICIPATING IN ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIM THAT MAY BE MADE IN THE CHAPTER 11 CASES.

[Remainder of page intentionally left blank]

Dated: [●], 2024
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ DRAFT

Robert J. Dehney, Sr. (No. 3578)
Matthew O. Talmo (No. 6333)
Jonathan M. Weyand (No. 6959)
Erin L. Williamson (No. 7286)
1201 N. Market Street, 16th Floor
P.O. Box 1347
Wilmington, Delaware 19899-1347
Telephone: (302) 658-9200
Facsimile: (302) 658-3989
Email: rdehney@morrisnichols.com
mtalmo@morrisnichols.com
jweyand@morrisnichols.com
ewilliamson@morrisnichols.com

- and -

MILBANK LLP

Dennis F. Dunne, Esq. (*pro hac vice* pending)
Michael W. Price, Esq. (*pro hac vice* pending)
Lauren C. Doyle, Esq. (*pro hac vice* pending)
Brian Kinney, Esq. (*pro hac vice* pending)
55 Hudson Yards
New York, New York 10001
Telephone: (212) 530-5000
Facsimile: (212) 530-5219
Email: ddunne@milbank.com
mprice@milbank.com
ldoyle@milbank.com
bkinney@milbank.com

Proposed Co-Counsel for Debtors in Possession

Schedule 1

Rejected Contracts

Rejection Counterparty	Description of Contract	Abandoned Property	Rejection Date

Exhibit D

Assumption Notice

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

In re:	)	
	)	Chapter 11
NUMBER HOLDINGS, INC. <i>et al.</i> , ¹	)	
	)	Case No. 24-10719 (JKS)
Debtors.	)	
	)	(Jointly Administered)
	)	
	)	
	)	

**NOTICE OF ASSUMPTION OR ASSUMPTION AND ASSIGNMENT OF
CERTAIN EXECUTORY CONTRACTS AND/OR UNEXPIRED LEASES**

**PARTIES RECEIVING THIS NOTICE SHOULD LOCATE THEIR NAMES AND
THEIR CONTRACTS OR LEASES ON SCHEDULE 1 ATTACHED HERETO AND
READ THE CONTENTS OF THIS NOTICE CAREFULLY.**

PLEASE TAKE NOTICE that on [●], 2024 the United States Bankruptcy Court for the District of Delaware (the “Court”) entered an [interim / final] order approving procedures for the rejection, assumption, or assumption and assignment of executory contracts and unexpired leases (and abandonment of property related thereto) and granting related relief [D.I. [●]] (the “Procedures Order”).²

PLEASE TAKE FURTHER NOTICE that, pursuant to the Procedures Order and by this written notice (this “Assumption Notice”), the Debtors hereby notify you that they have determined, in the exercise of their business judgment, that each Contract set forth on **Schedule 1** attached hereto is hereby assumed or assumed and assigned, as applicable, effective as of the date (the “Assumption Date”) set forth in **Schedule 1**, or such other date as the Debtors and the counterparty or counterparties to any such Contract agree or as may be ordered by the Court.

PLEASE TAKE FURTHER NOTICE that the Debtor or Assignee, as applicable, has the financial wherewithal to meet all future obligations under the Contract, which may be evidenced upon written request by the counterparty to the Contract,³ thereby demonstrating that

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: (i) Number Holdings, Inc. (1463); (ii) 99 Cents Only Stores LLC (1605); (iii) 99 Cents Only Stores Texas, Inc. (1229); (iv) 99 Cents PropCo LLC (7843); (v) 99 Cents HoldCo LLC (3987); and (vi) Bargain Wholesale LLC (8030). The Debtors’ principal offices are located at 1730 Flight Way, Suite 100, Tustin, CA 92782.

² Capitalized terms used and not otherwise defined herein have the meanings given to them in the Order.

³ To the extent the Debtors seek to assume or assume and assign a lease of non-residential real property, the Debtors will cause evidence of adequate assurance of future performance to be served with the Assumption Notice via electronic mail, if known, and by overnight delivery upon the applicable Assumption Counterparties at the address set forth in the notice provision of the applicable Contract (and upon the Assumption Counterparties’ counsel, if

the Debtor or Assignee, as applicable, has the ability to comply with the requirements of adequate assurance of future performance.

PLEASE TAKE FURTHER NOTICE that parties seeking to object to the proposed assumption or assumption and assignment (including as to the proposed cure amount or evidence of adequate assurance of future performance) of any Contract must file and serve a written objection so as to actually be received by the following parties no later than seven (7) days after the date that the Debtors file and serve this Assumption Notice: (i) the Debtors, 1730 Flight Way, Suite 100, Tustin, CA 92782; (ii) proposed counsel to the Debtors, (a) Milbank LLP, 55 Hudson Yards, New York, NY 10001, Attn: Dennis F. Dunne (ddunne@milbank.com); Michael W. Price (mprice@milbank.com); Lauren C. Doyle (ldoyle@milbank.com); Brian Kinney (bkinney@milbank.com); and James McIntyre (jmcintyre@milbank.com), and (b) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware 19899-1347, Attn: Robert J. Dehney, Sr. (rdehney@morrisnichols.com); Matthew O. Talmo (mtalmo@morrisnichols.com); and Jonathan M. Weyand (jweyand@morrisnichols.com); (iii) counsel to the DIP Agent, DIP Lender, and FILO Agent, Proskauer Rose LLP, Eleven Times Square, New York, NY 10036, Attn: David M. Hillman (dhillman@proskauer.com); (iv) counsel to the ABL Facility Agent, Sidley Austin LLP, One South Dearborn, Chicago, IL 60603, Attn: Dennis M. Twomey (dtwomey@sidley.com) and Jackson T. Garvey (jgarvey@sidley.com), and 350 South Grand Avenue, Los Angeles, CA 90071, Attn: Anna Gumport (agumport@sidley.com); (v) counsel to the Ad Hoc Group of 2026 Noteholders, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attn: Jeffrey D. Saferstein (jeffrey.saferstein@weil.com) and Chase Bentley (chase.bentley@weil.com); (vi) counsel to certain 2026 Noteholders, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019, Attn: Brian S. Hermann (bhermann@paulweiss.com) and Brian Bolin (bbolin@paulweiss.com); (vii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Rosa Sierra-Fox (rosa.sierra-fox@usdoj.gov); and (viii) any statutory committee appointed in the Chapter 11 Cases.

PLEASE TAKE FURTHER NOTICE that, absent an objection being timely filed, the assumption (or assignment, if applicable) of each Contract shall become effective on the applicable Assumption Date set forth in **Schedule 1** attached hereto, or such other date as the Debtors and the counterparty or counterparties to such Contract agree or as may be ordered by the Court; *provided that* the Assumption Date for a lease of nonresidential real property shall not occur earlier than the date the Debtors filed and served this Assumption Notice.⁴

known, by electronic mail). To the extent the Contract the Debtors seek to assume or assume and assign is not a lease of non-residential real property, the Debtors shall serve (by electronic mail, if requested) a counterparty to such Contract with evidence of adequate assurance of future performance as soon as reasonably practicable upon such counterparty's written request to the Debtors' proposed counsel.

⁴ An objection to the assumption of any particular Contract or cure amount listed in this Assumption Notice shall not constitute an objection to the assumption of any other contract or lease listed in this Assumption Notice. Any objection to the assumption of any particular Contract or cure amount listed in this Assumption Notice must state with specificity the Contract to which it is directed.

PLEASE TAKE FURTHER NOTICE that the proposed cure amount under the Contract is set forth in **Schedule 1** attached hereto. If a written objection to the proposed cure amount is not timely filed, then the cure amount shall be binding on all parties and no amount in excess thereof shall be paid for cure purposes.

PLEASE TAKE FURTHER NOTICE that, if an objection to the assumption of any Contract is timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract(s) to which such objection relates. If such objection is overruled or withdrawn, such Contract or Contracts shall be assumed as of the Assumption Date set forth in **Schedule 1** attached hereto or such other date as the Debtors and the counterparty or counterparties to such Contract agree or as may be ordered by the Court.

[Remainder of page intentionally left blank]

Dated: [●], 2024
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ DRAFT

Robert J. Dehney, Sr. (No. 3578)
Matthew O. Talmo (No. 6333)
Jonathan M. Weyand (No. 6959)
Erin L. Williamson (No. 7286)
1201 N. Market Street, 16th Floor
P.O. Box 1347
Wilmington, Delaware 19899-1347
Telephone: (302) 658-9200
Facsimile: (302) 658-3989
Email: rdehney@morrisnichols.com
mtalmo@morrisnichols.com
jweyand@morrisnichols.com
ewilliamson@morrisnichols.com

- and -

MILBANK LLP

Dennis F. Dunne, Esq. (*pro hac vice* pending)
Michael W. Price, Esq. (*pro hac vice* pending)
Lauren C. Doyle, Esq. (*pro hac vice* pending)
Brian Kinney, Esq. (*pro hac vice* pending)
55 Hudson Yards
New York, New York 10001
Telephone: (212) 530-5000
Facsimile: (212) 530-5219
Email: ddunne@milbank.com
mprice@milbank.com
ldoyle@milbank.com
bkinney@milbank.com

Proposed Co-Counsel for Debtors in Possession

Schedule 1

Assumed Contracts

Assumption Counterparty	Description of Contract	Cure Amount	Assumption Date