Name of Attorney

Office Mailing Address

Telephone Number

Facsimile Number

E-Mail Address

State Bar I.D. Number

(Attorney for \_\_\_\_\_\_\_\_\_)

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF MONTANA

|  |  |
| --- | --- |
| IN RE:  , ,  Debtors. | Case No. **MOTION TO ASSUME [REJECT] EXECUTORY CONTRACT [OR UNEXPIRED RESIDENTIAL LEASE]; AND NOTICE** |

The Motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter “Creditor”) respectfully represents:

1. The Debtor(s) filed a petition in this Court under Chapter of the Bankruptcy Code on the \_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.
2. Creditor is the [seller/lessor/or otherwise] of property to the Debtor(s), and pursuant to Mont. LBR 6006-1(a), provides the following information: [Attach copies of executory contract or unexpired lease, or refer to Proof of Claim or other location for such documents in the file.]
3. The present balance owing to Creditor, excluding any precomputed interest or other unearned charges, is $\_\_\_\_\_\_\_\_\_\_\_\_. Additional charges claimed are $\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [describe with specificity].
4. The date upon which the subject debt was incurred: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
5. Creditor is a [seller/lessor/or specify] of the following described property:
6. A description of the property, including its location, is as follows:
7. The fair market value of the property subject to the executory contract or unexpired lease is $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
8. A description of, and the amounts due upon, any other interests which have priority over that of Creditor are as follows:
9. If the Debtor is in default, the number of defaulted installments and the total amount in default are as follows:
10. Provisions of Debtor's proposed cure [if applicable] are as follows:
11. This Motion is made under and pursuant to the following subsection of 11 U.S.C. § 365(d)(2)\_\_\_.
12. Other facts which are relevant in determining whether relief should be granted are as follows:

WHEREFORE, the undersigned moves the Court to grant this Motion to Assume [Reject] Executory Contract [or Unexpired Residential Lease] pursuant to 11 U.S.C. § 365(d)(2), and to grant such other relief as the Court may deem appropriate.

DATED this \_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of attorney]

(Attorney for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

NOTICE OF OPPORTUNITY TO RESPOND

AND REQUEST A HEARING

If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:

**NOTICE OF HEARING**

**Date:**

**Time:**

**Location:**

If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.

DATED this \_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of attorney]

(Attorney for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify under penalty of perjury that on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, a copy of the foregoing was served by electronic means pursuant to LBR 9013-1(d)(2) on the parties noted in the Court’s ECF transmission facilities and/or by mail on the following parties:

See attached mailing matrix [Insert the name and address of each individual or entity served.]

\* The attached list will not be mailed out to creditors but will be on file with the United States Bankruptcy Court. A copy will be provided upon request.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. There need be no Certificate of Service if all parties being served will be served electronically via the Court’s CM/ECF system. Only the affected creditor, or its counsel, and any parties in interest requesting special notice need also be served with this Motion; except that in a chapter 9 or 11 case, the Motion must also be served upon any committee appointed under the Code or its authorized agent, or, if no committee has been appointed, upon the creditors listed under Rule 1007(d), Fed. R. Bankr. P.]