

## COLLATERAL SECURITY AGREEMENT FOR LEASE

THIS COLLATERAL SECURITY AGREEMENT ("**Agreement**") is dated as of the \_\_\_\_ day of \_\_\_\_\_ 2011 (the "**Effective Date**") between **BILLINGS DEPOT, INC.**, ("**Lessee**") whose address is 2310 Montana Avenue, Billings, MT 59101, and **THE CITY OF BILLINGS, a Montana Municipal Corporation**, ("**Lender**") whose address is 210 North 27<sup>th</sup> Street, Billings, MT 59101.

### RECITALS

**A.** Lender is loaning ONE HUNDREDTWENTY THREE THOUSAND THREE HUNDRED EIGHTY THREE and no/100s DOLLARS (\$123,383.00) to Lessee. Lender and Lessee previously entered into a Sublease ("**Lease**") of all Lender's rights to possession in the Billings Depot Property to Lessee on August 15, 2008.

**B.** Lessee has procured a loan ("**Loan**") from Lender, and the Loan creates a lien in favor of Lender on income from parking lot rental receipts and other specified chattels or rights possessed by Lessee ("**Personal Property**").

**C.** Lessee desires to arrange for the potential assignment of the Lease to Lender as collateral security for the Loan.

**D.** Lessor is willing to approve the Loan and the potential assignment to Lender of the Lease under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, premises, and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

### AGREEMENTS

In consideration of the mutual covenants herein, Lessor and Lessee hereby agree as follows:

1. Lessee hereby agrees to potentially assign to the Lender all Lessee's right, title and interest in, rental income received by Lessee from Computers Unlimited or other third parties for parking lot spaces Lease as collateral security for the Loan pursuant to **Paragraph 3** below ("**Potential Assignment**").

2. Except for the purposes of collateral security, Lessee's Potential Assignment of the Lease to Lender shall not become effective as between Lessor and Lender and imposes no duties or obligations upon Lender under the Lease unless and until the title to all Lessee's Personal Property upon the Premises is transferred from Lessee in appropriate proceedings for collection of the Loan, as stated in **Paragraph 3** below.

3. In the event Lender's lien against Lessee's Personal Property is enforced in any proceeding for the collection of the Loan, the Personal Property may be sold to any person who may purchase the same in such proceedings; provided, however, that (i) Lender shall in no event be permitted to conduct a public auction or private sale of the Personal Property on the Premises or advertise the same at the Premises, (ii) Lender agrees to pay all costs and expenses of the repair of any damage caused to the Premises by Lender or its agents in entering, inspecting or removing any Personal Property, (iii) Lender shall give Lessor at least three (3) days prior written notice of its intention to exercise its right to enter upon the Premises for such purpose, (iv) Lender shall provide Lessor with verification satisfactory to Lessor of the continued validity of the Loan and Lender's lien at the time Lender exercises such rights, and (v) Lenders rights shall be further subject to the rules and regulations of Lessor (including insurance and safety requirements) regarding access to the Premises.

4. Lender agrees that if the Potential Assignment of the Lease to Lender by Lessee becomes effective pursuant to **Paragraph 2** above, Lender will be bound by all of the terms and conditions of the Lease and shall do and perform every act and obligation which, under the terms of the Lease, is to be done and performed by Lessee.

5. This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this Agreement may also be exchanged via electronic facsimile machines and any electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes.

Executed by the parties to be effective as of the Effective Date set forth above.

**"LESSEE"**

**Billings Depot, Inc.**, a Montana nonprofit corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**"LENDER"**

**CITY OF BILLINGS**, a Montana Municipal corporation

By: Thomas W. Hanel  
Its: Mayor

ATTEST:

\_\_\_\_\_  
CARI MARTIN, City Clerk