

## LOAN AGREEMENT

**THIS LOAN AGREEMENT** is entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between **CECIL & RAY'S GARAGE, INC.**, a Texas corporation, **CAMERON BOWERS**, an individual, and **PATRICE SIMS**, an individual (hereinafter collectively referred to as Borrower, whether one or more), and the **TULIA ECONOMIC DEVELOPMENT CORPORATION**, a Texas nonprofit corporation (hereinafter called "Lender").

### WITNESSETH:

WHEREAS, Lender, a Texas nonprofit corporation organized and existing under Section 4B of the Texas Development Corporation Act of 1979, whose purpose is to promote commerce in Swisher County, Texas, has economic development funds available to be used for loans to businesses and individuals located in Swisher County, Texas, to create jobs and economic growth in Swisher County, Texas; and

WHEREAS, Borrower, doing business as **CECIL & RAY'S GARAGE**, is engaged in the business of automotive and light truck repair, maintenance services for heavy duty trucks, small engine repair, custom modification/fabrication for vehicles, complete vehicle computer diagnostics and other miscellaneous automotive services and is located within the City of Tulia, Texas; and

WHEREAS, Borrower has requested Lender to loan to Borrower a loan in the sum of \$15,000.00 to be used for the purpose of purchasing certain equipment and services, including a transmission jack, muffler machine accessories, POS computer system, A/C service machine, diagnostic machine, and electrical work for installation of equipment, with the note to be secured by a lien and security interest in property owned by the Borrower; and

WHEREAS, Borrower represents and warrants that for at least 3 calendar years following the closing date of the loan referenced herein, the minimum number of personnel employed by Borrower shall be three (3) full-time employees, all of said employees being residents of Swisher County, Texas; and

WHEREAS, based on Borrower's representation, the Board of Directors of the Tulia Economic Development corporation has determined that loaning such sums of money to Borrower is necessary to promote new or expanded business development in the City of Tulia, Texas, and Swisher County, Texas; and

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, Borrower and Lender do hereby agree as follows:

**ARTICLE I.**  
**Loan Commitment**

Subject to the terms, covenants and conditions hereinafter set forth, Lender hereby agrees to lend, and Borrower agrees to borrow as follows:

- A. Amount - A loan in the amount of \$15,000.00 from Tulia Economic Development Corporation to be funded at closing.
- B. Interest Rate on the note - Zero percent (0.00%) per annum from date of funding.
- C. Terms of repayment - The note will be paid in 60 equal monthly amortized installments, the first installment being due and payable on or before the 1<sup>st</sup> day of October, 2014, and an additional installment being due and payable on or before the same day of each succeeding month thereafter until the entire sum, both principal and interest, on the note is paid in full.

**ARTICLE II.**  
**Purpose of Loan**

The purpose of the loan is to purchase certain equipment including a transmission jack, muffler machine accessories, POS computer system, A/C service machine, diagnostic machine, and to pay for electrical work for installation of equipment at Borrower's business in Swisher County, Texas.

**ARTICLE III.**  
**Security for loan**

The following security will be given by Borrower for benefit of Lender:

- A. First-lien security interest in Borrower's accounts receivable, inventory, machinery, equipment, office furniture, supplies and fixtures now owned or hereinafter acquired by Borrower.
- B. First-lien deed of trust on the following described real property owned by Borrower:

**The East 75' of Lots Nos. 5, 6, and 7, Block Nos. 114, to the Town of  
Tulia, Swisher County, Texas, locally known as 810 S.W. 2<sup>nd</sup> Street,  
Tulia, Swisher County, Texas.**

**ARTICLE IV.**  
**Loan Documents**

Borrower agrees that it will, at or prior to closing the loan, execute and deliver to Lender the following described documents:

- A. Promissory note in the form which is attached hereto as Exhibit "A".
- B. Deed of Trust in the form which is attached hereto as Exhibit "B".
- C. Security Agreement covering the collateral described above in the form which is attached hereto as Exhibit "C".

D. Financing statement in the form which is attached hereto as Exhibit "D".

(All of the above hereinafter called and referred to as Loan Documents.)

Borrower agrees that it will also deliver to Lender at or prior to closing true and correct copies of all local, state and federal licences and permits required and necessary for Borrower to conduct its business at its business location in Tulia, Swisher County, Texas.

#### **ARTICLE V. Insurance Policies**

Borrower will obtain and maintain, at Borrower's expense, casualty insurance policies naming Lender under a mortgagee's loss payable clause, with financially sound and reputable insurance carriers, satisfactory to Lender, with respect to the secured property described above, against such casualties and contingencies and in such types and in an amount of not less than the full insurable value of the property, and providing that Lender shall receive not less than 10 days written notice prior to the cancellation of the policy. Borrower shall provide copies of the policies or evidence of insurance to Lender.

#### **ARTICLE VI. Borrower's Warranties and Representations**

Borrower represents and warrants to Lender that the following statements are true and correct as of the date of execution of this loan agreement and will be true and correct so long as Borrower owes Lender any funds.

A. Authority -

Borrower, **CECIL & RAY'S GARAGE, INC.**, is a Texas corporation, and Patrice Sims, being the Director of said company, is authorized to execute the Loan Documents on behalf of said company and to borrow money in accordance with the terms of this agreement and

to do any and all things as set forth in this agreement. Borrowers, **PATRICE SIMS** and **CAMERON BOWERS**, are individuals and are authorized to execute the Loan Documents and to borrow money in accordance with the terms of this agreement and to do any and all things as set forth in this agreement.

B. Financial condition -

Any and all financial statements delivered or to be delivered to Lender are true and correct and show the true and correct financial condition of Borrower.

C. No other liens -

There are no other liens or encumbrances on the collateral to be given as security as provided for in this agreement, other than those granted or to be granted to Lender.

D. No litigation -

There are no actions, suits, or proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower.

E. Taxes -

Borrower has filed all required federal, state and local returns and has paid all taxes and assessments as shown as they became due. Borrower agrees to continue to pay all taxes of any type whatsoever, before the same become delinquent, until such time as the indebtedness is repaid.

F. No Undocumented Workers -

Borrower does not and will not knowingly employ an undocumented worker. Borrower understands that if, after receiving any public funds, Borrower is convicted of a violation under 8 U.S.C. Section 1324a(f), Borrower shall repay the full amount of public funds

dispersed with interest, at the rate and according to the other terms provided in this Agreement, not later than the 120<sup>th</sup> day after the date Borrower is notified by Lender of the violation.

**ARTICLE VII.**  
**Borrower's Affirmative Covenants**

Borrower covenants and agrees that so long as any indebtedness is due and owing by Borrower to Lender under the terms of the Loan Documents that:

- A. Borrower will punctually pay or cause to be paid the principal and interest becoming due on the indebtedness in accordance with the terms of the promissory note, the loan documents, and this agreement.
- B. Borrower will maintain a minimum of 3 full-time employees at its business location in Tulia, Swisher County, Texas, with all such employees being residents of Swisher County, Texas. Not later than 30 days after request by Lender, Borrower shall submit to Lender Borrower's payroll records for Lender's inspections and audit.
- C. Borrower will cause proper books of record and account to be made of its business in accordance with generally accepted accounting procedures and will furnish such books and accounts for inspection by Lender as requested.
- D. Borrower will pay and promptly discharge all taxes, assessments, and governmental charges or levies imposed upon it, before the same shall become in default.
- E. Borrower will maintain and keep the collateral given as security and described above in good condition, repair, and working order, and will make all necessary repairs, renewals, replacements, and improvements thereon as may be necessary, so that its business can be carried on in an efficient manner.

- F. Borrower will cause the collateral given as security, as described above, to be insured against all insurable perils.
- G. Borrower will furnish Lender within thirty days after the end of the fiscal year of Borrower annual financial statements, including a balance sheet and profit and loss statements.
- H. Borrower will provide Lender with evidence of Borrower obtaining all licenses and permits required and necessary for Borrower to conduct its business at the Tulia, Texas location, and will provide upon request from Lender evidence that such licenses are maintained in good standing.
- I. Borrower will execute any other documents reasonably requested by Lender in furtherance of this Loan Agreement.

**ARTICLE VIII.**  
**Borrower's Restrictive Covenants**

Borrower covenants and agrees that so long as any indebtedness is due and owing by Borrower to Lender under the terms of the Loan Documents, that:

- A. Borrower will maintain management at all times satisfactory to Lender and will notify Lender of any management changes.
- B. Borrower will not create, assume, or incur any indebtedness providing for a lien on the collateral given as security without written consent from Lender.
- C. Borrower will not sell, lease, transfer, remove the collateral from Swisher County, Texas, or otherwise dispose of the collateral given as security and described above.

**ARTICLE IX.**  
**Default by Borrower**

Borrower shall be deemed to be in default under this agreement and all of the Loan Documents given in connection herewith on the happening of any one of the elements of default as defined below.

- A. Failure by Borrower to pay any principal and interest on the promissory note covered under this agreement as the same becomes due and payable, whether at maturity or by acceleration of maturity.
- B. Default in the observance or performance of any of the covenants, warranties, and representations, conditions, and agreements on the part of Borrower contained in this agreement or the Loan Documents.
- C. The use of the loan funds by Borrower for purposes other than the intended purposes specified herein.
- D. Any false, misleading, or untrue representation or warranties made by Borrower in any material respect in any financial statement furnished by Borrower to Lender.
- E. Any elements of default as set forth in any of the Loan Documents shall also be deemed an element of default under the provisions of this agreement.

Each of the above shall be deemed an element of default, the occurrence of which shall, at the option of Lender, mature all sums then due and owing to Lender and said sums then due and owing shall be due and payable on demand, without presentation, protest or notice of any kind, all of which are expressly waived by Borrower, including notice of intent to accelerate the maturity and acceleration of maturity. Lender's failure to exercise this option at any point in time shall in no way invalidate its right to exercise the option in future default situations.



Should it become necessary to collect the monetary obligations of this Agreement through an attorney, Borrower agrees to pay all costs of collecting these monies, including reasonable attorneys' fees to the extent permitted by law, whether collected by suit, foreclosure, or otherwise.

**ARTICLE X.**  
**Miscellaneous**

- A. This agreement and the Loan Documents shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Swisher County, Texas.
- B. This agreement may not be changed, terminated, or modified orally or in any other manner, other than by an agreement in writing, signed by all parties.

THIS WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN BORROWER AND LENDER AND MAY NOT BE CONTRADICTED BY EVIDENCE OR PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENT BETWEEN THE PARTIES.

DATED effective the day and year first above written.

**BORROWER**

**CECIL & RAY'S GARAGE, INC.**

By: \_\_\_\_\_  
**PATRICE SIMS, Director**

\_\_\_\_\_  
**PATRICE SIMS**, Individually

\_\_\_\_\_  
**CAMERON BOWERS**, Individually

**LENDER**

**TULIA ECONOMIC DEVELOPMENT CORPORATION**

By:\_\_\_\_\_  
**AMY McATEE**, Vice-President