
FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT

AMONG

**DRIVE AUTOMOTIVE INDUSTRIES OF AMERICA, INC.,
AS SPONSOR**

AND

**MI DEVELOPMENTS (AMERICA) INC.,
AS SPONSOR AFFILIATE**

AND

GREENVILLE COUNTY, SOUTH CAROLINA

DATED AS OF [], 2013

PREPARED BY:

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FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT (“Fee Agreement”) is made and entered into as of [], by and among Greenville County, South Carolina (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), acting by and through the Greenville County Council (“County Council”) as the governing body of the County, and Drive Automotive Industries of America, Inc., a Delaware corporation, as sponsor (“Sponsor”), and MI Developments (America) Inc., a Delaware corporation, as sponsor affiliate (“Sponsor Affiliate,” together with the Sponsor, the “Company” and with County, “Parties,” each, including the County, a “Party”).

WITNESSETH:

(a) The County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“Act”) to enter into a fee agreement with qualifying industries to induce such industries to locate in the State and to encourage industries now located in the State to expand their investments and thus make use of and employ manpower and other resources of the State;

(b) The County is authorized pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act and an Agreement for Development for Joint County Industrial Park dated October 6, 1998, as amended, the County has jointly developed a multi-county park with Anderson County, South Carolina (“Park”) and included or will include the Real Property (as defined herein) on which the Project (as defined herein) will be located in the Park;

(c) Because the Real Property is located in the Park, the County is authorized pursuant to Section 4-1-175, Code of Laws of South Carolina, 1976, as amended, to provide a credit against FILOT Payments (as defined herein) made in connection with the Project (as defined herein) for purposes of reimbursing the Company for Infrastructure (as defined herein) expenditures;

(d) The Sponsor has agreed to expand its automotive component manufacturing facility within the County (“Project”). The Sponsor will own a portion of the Equipment (defined herein) at the Project. The Sponsor Affiliate owns the Real Property at the Project. The Sponsor reasonably expects that it will make, otherwise taxable, capital investment at the Project of at least \$50,000,000 (“Project Commitment”), which qualifies the Project for benefits under the Act;

(e) Pursuant to the Act and based on information provided by the Sponsor, the County has determined that (i) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefit not otherwise adequately provided locally; (ii) the Project will not give rise to any pecuniary liability of the County or incorporated municipality or to any charge against any of their general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public will be greater than the costs to the public;

(f) Pursuant to a resolution adopted on June 5, 2012 (“Inducement Resolution”), the County formally identified the Project as required by the Act. Pursuant to an Ordinance adopted on [] (“Fee Ordinance”), the County Council authorized the County to enter into this Fee Agreement with the Company which

identifies the property comprising the Project as Economic Development Property under the Act subject to the terms and conditions hereof.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the Parties agree as follows, with the understanding that no obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County:

ARTICLE I DEFINITIONS

Section 1.1. *Terms.* The terms defined in this Article shall for all purposes of this Fee Agreement have the meaning herein specified, unless the context clearly requires otherwise.

“Chairman” means the Chairman of the County Council.

“Clerk of County Council” means the Clerk to the County Council.

“Code” means the South Carolina Code of Laws, 1976, as amended.

“Commencement Date” means the last day of the first property tax year during which Economic Development Property is placed in service, expected to be December 31, 2013.

“County Administrator” means the County Administrator of the County.

“Department” means the South Carolina Department of Revenue.

“Diminution of Value” in respect of any Phase of the Project means any reduction in the value based on original fair market value as determined in Step 1 of Section 3.1 of this Fee Agreement, of the items which constitute a part of the Phase which may be caused by (i) the removal of equipment pursuant to Section 3.6 of this Fee Agreement, (ii) a casualty to the Phase of the Project, or any part thereof, described in Section 3.7 of this Fee Agreement, or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 3.9 of this Fee Agreement.

“Economic Development Property” means all items of real and tangible personal property comprising the Project which qualify as economic development property under the Act, become subject to this Fee Agreement, and are identified by the Company in connection with the annual filing of a SCDOR PT-100, PT-300 or comparable forms with the Department (as such filing may be amended from time to time) for each year within the Investment Period. Title to all Economic Development Property shall at all times remain vested in the Company, except as may be necessary to take advantage of the effect of Section 12-44-160 of the Act.

“Equalization Payment” means, (a) in the event of a Diminution of Value under this Fee Agreement, the payment to the County for the difference between (i) the FILOT payments previously remitted by the Company to the County on the Removed Components as calculated under Section 3.1 of this Fee Agreement and (ii) the FILOT Payment that would have been due on the Removed Components if the FILOT Payments had been calculated under Section 12-44-50(A)(1) of the Act; or (b) in the event of the termination of this Fee Agreement prior to the end of the Fee Term, the payment made to the County for the difference between (i) the FILOT payments previously remitted by the Company to the County on the

Economic Development Property as calculated under section 3.1 of this Fee Agreement and (ii) the FILOT Payments that would have been due on the Economic Development Property if the FILOT Payments has been calculated under Section 12-44-50(A)(1) of the Act.

The Company shall pay the Equalization Payment to the County at the time the next annual FILOT bill following the removal or casualty of Economic Development Property or termination of the Fee Agreement would be due. The Equalization Payment is subject to interest pursuant to Section 12-54-25 of the Code.

“Equipment” means all of the machinery, equipment, furniture and fixtures, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Sponsor during the Investment Period as a part of the Project.

“Event of Default” means any Event of Default specified in Section 3.15 of this Fee Agreement.

“Fee Term” or “Term” means the period from the date of delivery of this Fee Agreement until the last Phase Termination Date unless sooner terminated or extended pursuant to the terms of this Fee Agreement.

“FILOT” means fee in lieu of *ad valorem* taxes.

“FILOT Payments” means the payments in lieu of *ad valorem* taxes which are due to the County with respect to the Project under the terms of this Fee Agreement.

“Improvements” means improvements, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period as a part of the Project.

“Infrastructure” means the infrastructure serving the Project and all improvements thereon including the Real Property and Personal Property, all as defined and permitted under Section 4-29-68 of the Code .

“Infrastructure Credit” means an annual credit against the Company’s annual FILOT liability to reimburse the County for Infrastructure expenses.

“Investment Period” means the period beginning with the first day that Economic Development Property is purchased or acquired and ending five years after the Commencement Date, which end date is expected to be December 31, 2017. The minimum investment must be completed within five years of the Commencement Date. Pursuant to Section 12-44-30(13) of the Act, the County may in its sole discretion extend the Investment Period.

“Phase” or “Phases” in respect to the Project means the Equipment, Improvements and Real Property, if any, placed in service during each year of the Investment Period.

“Phase Termination Date” means with respect to each Phase of the Project the day twenty years after the last day of the property tax year in which each such Phase of the Project becomes subject to the terms of this Fee Agreement. Anything contained herein to the contrary notwithstanding, the last Phase Termination Date shall be no later than December 31 of the year of the expiration of the nineteenth full calendar year after the Commencement Date.

“Project” means the Equipment, Improvements, and Real Property, together with the acquisition, construction, installation, design and engineering thereof, in phases.

“Real Property” means real property, as more particularly described in Exhibit A, together with all and singular the rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto acquired or constructed by the Company; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto, but only to the extent such Improvements and fixtures are deemed to become part of the Project under the terms of this Fee Agreement.

“Removed Components” means the following types of components or Phases of the Project or portions thereof, all of which the Company, shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable or unnecessary; or (b) components or Phases of the Project or portions thereof which the Company in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(c) of this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any item of Equipment or any Improvement which is scrapped or sold by the Company and treated as a Removed Component under Section 3.6 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement is deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. *Representations of the County.* The County hereby represents and warrants to the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provisions of the Act is authorized and empowered to enter into the transactions contemplated by this Fee Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein.

(b) The Project constitutes a “project” within the meaning of the Act.

(c) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of real and tangible personal property comprising the Project shall be considered Economic Development Property under the Act.

(d) As required by the terms of section 12-44-130 of the Act, the County acknowledges and approves the Sponsor Affiliate.

Section 2.2. *Representations of the Sponsor.* The Sponsor hereby represents and warrants to the County as follows:

(a) The Sponsor is a Delaware corporation and is qualified to conduct business in the State and has power to enter into this Fee Agreement.

(b) The Sponsor's execution and delivery of this Fee Agreement and its compliance with the provisions hereof do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor is now a party or by which it is bound.

(c) The Sponsor intends to operate the Project as a "project" within the meaning of the Act as in effect on the date hereof, and for such other purposes permitted under the Act, as the Sponsor may deem appropriate.

(d) The availability of the payment in lieu of taxes with regard to the Economic Development Property authorized by the Act has induced the Sponsor to undertake the Project in the County.

(e) The Sponsor will achieve the Project Commitment by the end of the Investment Period.

Section 2.3. Representations of the Sponsor Affiliate. The Sponsor Affiliate hereby represents and warrants to the County as follows:

(a) The Sponsor Affiliate is a corporation organized under the laws of the State of Delaware and is qualified to conduct business in the State and has power to enter into this Fee Agreement.

(b) The Sponsor Affiliate's execution and delivery of this Fee Agreement and its compliance with the provisions hereof do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor is now a party or by which it is bound.

(c) As required by the Act, the Sponsor Affiliate agrees to be bound by the terms of this Fee Agreement insofar as such terms concern the Real Property owned by the Sponsor Affiliate which comprises the Project. The Sponsor Affiliate shall not be bound by any covenants that specifically apply only to the Sponsor and the Sponsor hereby indemnifies and holds the Sponsor Affiliate harmless in connection therewith.

ARTICLE III FILOT PAYMENTS

Section 3.1. Negotiated Payments.

(a) The Company shall make FILOT Payments on all Economic Development Property comprising the Project and placed in service, as follows: the Company elects to make equal annual FILOT Payments with respect to each Phase of the Project placed in service on or before each December 31 through December 31, 2017, pursuant to Section 12-44-50(A)(3) of the Act, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The parties agree that the equal annual stream of FILOT Payments to be paid under Section 12-44-50(A)(3) of the Act must produce a net present value amount that is the same as if the FILOT Payments were calculated in accordance with Section 12-44-50(A)(1) of the Act. The discount rate for the calculation of net present value in all cases is provided in Exhibit B.

(b) The amount of such annual FILOT Payments shall be determined by the following procedure (subject, in any event, to the required procedures under the Act and to Section 3.4 hereof):

- Step 1: Determine the fair market value of the Phase of the Project placed in service in any given year for such year and for the following 19 years using original income tax basis for State income tax purposes for any real property (provided, if real property is constructed for the fee or is purchased in an arms length transaction, fair market value is deemed to equal the original income tax basis, otherwise, the Department will determine fair market value by appraisal) and original income tax basis for State income tax purposes less depreciation for each year allowable to the Company, for any personal property as determined in accordance with Title 12 of the Code, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement, except that no extraordinary obsolescence shall be allowable but taking into account all applicable property tax exemptions which would be allowed to the Company, under State law, if the property were taxable, except those exemptions specifically disallowed under Section 12-44-50(A)(2) of the Act, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement.
- Step 2: Apply an assessment ratio of 6% to the fair market value as determined for each year in Step 1 to establish the taxable value of each Phase of the Project in the year it is placed in service until in each of the 19 years thereafter or such longer period of years that the annual fee payment is permitted to be made by the Company, under the Act, as amended.
- Step 3: Use a millage rate of 272.1 (which millage rate shall be a fixed rate for the term of this Fee Agreement) to determine the amount of the FILOT Payments which would be due in each year of the Fee Term on the payment dates prescribed by the County for such payments or such longer period of years that the annual fee payment is permitted to be made by the Company under the Act, as amended.
- Step 4: Reduce the amount resulting from Steps 1-3 by the amount of any Infrastructure Credit granted pursuant to Section 3.2 hereof.

(c) If, by the end of the Investment Period, the Sponsor fails to invest at least \$45,000,000, or if at anytime during the Fee Term, the Sponsor's investment at the Project falls below \$45,000,000, then the FILOT Payments shall be calculated in accordance with Section 12-44-50(A)(1) of the Act. Pursuant to the Act, the Sponsor shall also make any additional payments to the County if the FILOT Payments calculated in accordance with Section 3.1(b) above and previously remitted to the County are less than the amount of the FILOT Payments that would have been due had the FILOT Payments been calculated under Section 12-44-50(A)(1) during those years.

(d) In the event that the Sponsor achieves less than \$15,000,000 in non-exempt investment in the Project by the end of the Investment Period, the FILOT Payments to be paid to the County shall become equal, retroactive to the first year with respect to which FILOT Payments were to have been made, to the amount which would result from *ad valorem* taxes levied on the Project by the County, municipality or municipalities, school district or school districts and other political units as if the Project was and had not been subject to the Act. Any amount determined to be due and owing to the County with respect to a year or years during the Investment Period for which FILOT Payments have been previously remitted by the Company to the County hereunder, shall be reduced by the amount of net (taking into account any Infrastructure Credits received) FILOT Payments actually made with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law, and shall be payable within ninety (90) days after the end of the Investment Period. Such repayment amount shall be subject to interest at the statutory rate for non-payment of *ad valorem* taxes.

(e) In the event that it is determined by a final order of a court of competent jurisdiction or by agreement of the parties that the minimum payment in lieu of taxes applicable to this transaction is to be calculated differently than described above, the payment shall be reset prospectively at the minimum permitted level so determined.

(f) In the event that the Act or the above-described FILOT Payments are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company with the benefits to be derived hereunder, it being the intention of the County to offer the Company a strong inducement to locate the Project in the County. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County on the Project with respect to a year or years for which FILOT Payments have been previously remitted by the Company to the County hereunder, shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law. Upon request, the County shall consider implementation of any subsequent statutory changes that could benefit the Company.

Section 3.2. Terms of Infrastructure Credit.

(a) Subject to the provisions of this Section 3.2, the Company shall be entitled to receive an annual Infrastructure Credit of 35% against the Company's annual FILOT liability. The County shall reflect the Infrastructure Credit on the Company's annual FILOT bill. The Company is entitled to receive the Infrastructure Credit for a period of 10 years, beginning with the first annual FILOT bill.

(b) If the Company invests at least \$60,000,000 of non-exempt investment by the end of the Investment Period, then, beginning with the annual FILOT bill which is first due and payable on the January 15 payment date for the property tax year corresponding to the year in which the Company invests at least \$60,000,000 of non-exempt investment, (i) the Infrastructure Credit increases to 40% against the Company's annual FILOT liability and (ii) the Company is entitled receive the Infrastructure Credit for an additional two years, for a total of 12 years.

(c) If the Company invests at least \$70,000,000 of non-exempt investment by the end of the Investment Period, then, beginning with the annual FILOT bill which is first due and payable on the

January 15 payment date for the property tax year corresponding to the year in which the Company invests at least \$70,000,000 of non-exempt investment, (i) the Infrastructure Credit increases to 45% against the Company's annual FILOT liability and (ii) the Company is entitled to receive the Infrastructure Credit for an additional five years for a total of 15 years.

(d) The Infrastructure Credit provided herein shall be a reimbursement for actual Infrastructure expenditures made by the Company, as the same shall be certified by the Company to the County Administrator in writing, prior to the receipt by the Company of any Infrastructure Credits; provided, that if with respect to a given year of forthcoming Infrastructure Credits the total amount of previously certified actual investment in Infrastructure, less the amount of Infrastructure Credits previously received by the Company, shall at least equal or exceed the amount of forthcoming Infrastructure Credits for such year, the Company shall not be required to provide any certification in respect of such year. At no time may the cumulative amount of Infrastructure Credits received under this Fee Agreement exceed the actual amount of investment made by the Company in the Infrastructure.

(e) The Company shall utilize the certification required in Section 3.2(d) above to establish its entitlement to any increase in Infrastructure Credit percentage pursuant to Sections 3.2(b) and (c) above.

(f) The parties hereto agree that the Infrastructure Credit shall be deemed to reimburse the Company for Infrastructure expenditures related to real property necessary to serve the Project, thereby avoiding the application of the recapture provisions in Section 4-29-68(A)(2)(ii)(a) of the Code.

Section 3.3. FILOT Payments on Replacement Property. If the Sponsor elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Project, then, pursuant and subject to Section 12-44-60 of the Act, the Sponsor shall make statutory FILOT Payments with regard to such Replacement Property as follows:

(a) to the extent that the income tax basis of the Replacement Property ("Replacement Value") is less than or equal to the original income tax basis of the Removed Components ("Original Value") the amount of the FILOT Payments with respect to such Replacement Property shall be calculated in accordance with Section 3.1 hereof; provided, however, in making such calculations, the original cost to be used in Step 1 of Section 3.1 shall be equal to the lesser of (x) the Replacement Value or (y) the Original Value, and the number of annual payments to be made with respect to the Replacement Property shall be equal to twenty (20) minus the number of annual payments which have been made with respect to the oldest Removed Components disposed of in the same property tax year as the Replacement Property is placed in service; and

(b) to the extent that the Replacement Value exceeds the Original Value of the Removed Components ("Excess Value"), the FILOT Payments to be made with respect to the Excess Value shall be equal to the payment that would be due if the property were not Economic Development Property.

Section 3.4. Reductions in Payments of Taxes Upon Removal, Condemnation or Casualty. In the event of a Diminution in Value of any Phase of the Project, the payment in lieu of taxes with regard to that Phase of the Project shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of that Phase of the Project as determined pursuant to Step 1 of Section 3.1 hereof. However, failure to maintain the Investment Commitment (using original costs basis less depreciation) shall constitute an Event of Default under Section 3.15(e) hereof. In the event of a Diminution of Value, the Company shall make any necessary Equalization Payments which may be due on the Removed Components.

Section 3.5. Place and Allocation of FILOT Payments. The above-described FILOT Payments shall be made directly to the County in accordance with applicable law. FILOT payments are allocated in accordance with the Act.

Section 3.6. Removal of Equipment. The Sponsor shall be entitled to remove the following types of components or Phases of the Project from the Project with the result that said components or Phases ("Removed Components") shall no longer be considered a part of the Project and shall no longer be subject to the terms of this Fee Agreement: (a) components or Phases which become subject to statutory payments in lieu of *ad valorem* taxes; (b) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, uneconomic, worn-out, damaged, unsuitable, undesirable or unnecessary; or (c) components or Phases of the Project or portions thereof which the Company, in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(c) hereof. However, failure to maintain its investment at the Investment Commitment (using original cost basis less depreciation) shall constitute and Event of Default under Section 3.15(e) hereof.

In the event of a Diminution of Value under this Section 3.6, the Sponsor shall make any necessary Equalization Payment on the Removed Components.

Section 3.7. Damage or Destruction of Project. Subject in all events to any obligation to make any Equalization Payments which may be due on any Removed Component:

(a) *Election to Terminate.* In the event the Project is damaged by fire, explosion, or any other casualty, the Company is entitled to terminate this Agreement.

(b) *Election to Rebuild.* In the event the Project is damaged by fire, explosion, or any other casualty, and if the Sponsor does not elect to terminate this Agreement, the Sponsor may, in its sole discretion, commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Sponsor. All such restorations and replacements shall be considered substitutions of the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to, any amounts due to the County under Section 3.1 hereof.

(c) *Election to Remove.* In the event the Sponsor elects not to terminate this Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

(d) *Timing of Election.* The Sponsor shall make the elections under this Section within two years of the date of the damage or destruction of the Project.

Section 3.8. Multi-County Industrial Park. The Real Property has been provided with the benefits and status of being located within one of Greenville's existing multi-county parks through the date hereof. In connection with the Project and the negotiation of this Fee Agreement, the County desires to locate the Real Property in the Park or a successor multi-county park and the County agrees to use its best efforts to maintain the Project in the Park, or a successor multi-county park, through the Fee Term. The County agrees to undertake and execute those procedures, instruments, ordinances, resolutions and documents as may be reasonably required to accomplish the extension of the term of the Park.

Section 3.9. Condemnation.

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued occupancy of the Project commercially infeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Project or transfer in lieu thereof, the Sponsor may elect: (i) to terminate this Fee Agreement; (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Sponsor; or (iii) to treat the portions of the Project so taken as Removed Components.

Section 3.10. Maintenance of Existence. The Company agrees (i) that it shall not take any action which will materially impair the maintenance of its corporate existence and (ii) that it will maintain its good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the Company's corporate existence that result from internal restructuring or reorganization of the Company, or its parent are specifically authorized hereunder. Likewise, to the extent permitted by law, benefits granted to the Company under this Fee Agreement shall, in the event of any such restructuring or reorganization, be transferred to the successor entity under the provisions of Section 3.14 hereof. To the extent permitted by law, such transfers are specifically approved and authorized by the County without any further action by the County Council.

Section 3.11. Indemnification Covenants. (a) Except as provided in paragraph (b) below, the Sponsor shall indemnify and save the County, its past, present, and future employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all claims by or on behalf of any person arising from the County's execution of this Agreement, performance of the County's obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement. If such a claim is made against any Indemnified Party, then subject to the provisions of (b) below, the Sponsor shall defend the Indemnified Party in any action or proceeding. This Section 3.11 shall survive any termination of this Fee Agreement.

(b) Notwithstanding anything herein to the contrary, the Sponsor is not required to indemnify any Indemnified Party against any claim or liability (1) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement or; (2) resulting from that Indemnified Party's own gross negligence, bad faith, fraud, deceit, or willful misconduct.

(c) An Indemnified Party may not avail itself of the indemnification provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

(d) Following this notice, the Sponsor shall resist or defend against any claim or demand, action or proceeding, at its expense, using counsel of its choice. The Sponsor is entitled to manage and control the

defense of or response to any claim, charge, lawsuit, regulatory proceeding or other action, for itself and the Indemnified Party; provided the Sponsor is not entitled to settle any matter at the separate expense or liability of any Indemnified Party without the consent of that Indemnified Party. To the extent any Indemnified Party desires to use separate counsel for any reason, other than a conflict of interest, that Indemnified Party is responsible for its independent legal fees.

Section 3.12. Confidentiality/Limitation on Access to Project. The County acknowledges and understands that, to the extent, the Company utilizes confidential and proprietary “state-of-the-art” manufacturing equipment and techniques and that a disclosure of any confidential and proprietary “state-of-the-art” information relating to such equipment or techniques, including, but not limited to, disclosures of financial or other information concerning the Company’s operations would result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company’s employees and also upon the County. Therefore, the County agrees that, except as required by law and pursuant to the County’s police powers, neither the County nor any employee, agent or contractor of the County: (i) shall request or be entitled to receive any such confidential or proprietary information; (ii) shall request or be entitled to inspect the Project or any property associated therewith; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the County shall be entitled to inspect the Project provided they shall comply with the remaining provisions of this Section; or (iii) shall disclose or otherwise divulge any such confidential or proprietary information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by State law. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

Section 3.13. Sponsor Affiliates. The Company may designate from time to time additional sponsor affiliates pursuant to the provisions of Section 12-44-30(19) and Section 12-44-130 of the Act, which sponsor affiliates shall be entities which may join with the Company to make investments with respect to the Project, or which may participate in the financing of such investments, and which agree to be bound by the terms and provisions of this Fee Agreement. All additional sponsor affiliates (not designated herein) which otherwise meet the requirements of Section 12-44-30(19) and Section 12-44-130 of the Act must be approved by resolution of the County Council and must execute a Joinder Agreement, in substantially the form attached hereto as Exhibit C, by which an additional sponsor affiliate agrees to be bound by terms of this Fee Agreement.

The Company shall provide the County and the Department with written notice of any additional sponsor affiliate designated pursuant to this Section within 90 days after the end of the calendar year during which any such additional sponsor affiliate has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Act.

Section 3.14. Assignment and Subletting. This Fee Agreement may be assigned in whole or in part so long as such assignment is made with County consent, which consent may be granted by resolution of the County Council. Nothing herein shall be construed to prevent the Company from conveying, selling or assigning all or a portion of the Real Property comprising the Economic Development Property without the consent of the County. The County hereby grants its consent to (i) any transfer of all or a portion of the Real Property comprising the Economic Development Property and (ii) the transfer of the FILOT benefits associated with such Real Property to the transferee, so long as the Sponsor or a permitted assignee/transferee under this Fee Agreement remains the tenant of the Real Property and continues to operate a manufacturing facility therein (“Permitted Transfer”). The Sponsor expressly agrees it shall

remain liable for all indemnities and obligations set forth in this Fee Agreement after the completion of a Permitted Transfer. Subject to the provisions of Section 12-44-120 of the Act, the Company acknowledges that any transfer of the Real Property comprising the Economic Development Property that does not qualify as a Permitted Transfer and occurs without the County's consent may result in a loss of the benefits under this Fee Agreement for the Economic Development Property so transferred.

Section 3.15. Events of Default. The following are "Events of Default" under this Fee Agreement, and the term "Events of Default" means, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure to make, upon levy, the FILOT Payments described in Section 3.1 hereof; provided, however, that Company is entitled to all redemption rights granted by applicable statutes;

(b) Failure to make payment of any other amounts payable to the County under this Agreement, which default has not been cured within 30 days after written notice of nonpayment by the County;

(c) Failure by the Company to perform any of the other material terms, conditions, obligations or covenants of the Company hereunder, which failure shall continue for a period of 90 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the County shall agree in writing to an extension of such time prior to its expiration;

(d) Failure by the Sponsor to continue operations at the Project;

(e) Failure by the Sponsor to invest at least \$15,000,000 by the end of the Investment Period; or

(f) Failure by the Sponsor to maintain non-exempt investment at the Project, as determined by the original cost basis without regard to depreciation, of at least \$15,000,000.

Section 3.16. Remedies on Default. Whenever any Event of Default shall have occurred and shall be continuing, the County, after having given written notice to the Company of such default and after the expiration of any cure period in which the Event of Default has not been cured, shall have the option to take any one or more of the following remedial actions:

(a) Terminate the Fee Agreement; or

(b) Take whatever action at law or in equity that may appear necessary or desirable to collect the other amounts due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Fee Agreement.

In addition to all other remedies herein provided, the nonpayment of FILOT Payments shall constitute a lien on the Project for tax purposes as provided in Section 12-44-90 of the Act. In this regard and notwithstanding anything in this agreement to the contrary, the County may exercise the remedies provided by general law (including Title 12, Chapter 49 of the Code) relating to the enforced collection of *ad valorem* tax to collect any FILOT Payments due hereunder.

Section 3.17. Remedies Not Exclusive. No remedy conferred upon or reserved to the County under this Fee Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter existing. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such

right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be herein expressly required and such notice required at law or equity which the Company is not competent to waive.

Section 3.18. *Waiver of Recapitulation Requirements.* As permitted under Section 12-44-55 of the Act, the Company and County hereby waive application of any of the recapitulation requirements as set forth in Section 12-44-55.

Section 3.19. *Administrative Fees.* The Sponsor shall reimburse the County for all reasonable costs and attorneys fees incurred in the negotiation and approval of this Fee Agreement, which fees are not to exceed \$7500, and related actions of the County Council with respect to the Project, as well as all reasonable costs and fees incurred in the implementation of this Fee Agreement, including but not limited to the County's legal fees and costs for retention of its Special Counsel, actually incurred by the County but exclusive of normal County overhead including costs and salaries related to administrative, staff employees and similar costs and fees, as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is 45 days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's right to receive such payment, specifying the nature of such expense and requesting payment of same. The County does not anticipate (but cannot guarantee) that any out of pocket fees or costs will be incurred in the future in the ordinary course of implementation of this Fee Agreement, except as may be requested by the Company.

Section 3.20. *Filings.*

(a) On request, on or before May 1 of each year up to and including the May 1 immediately following the end of the Investment Period, the Company shall provide the Greenville County Auditor with a list of all property constituting the Phase as was placed in service as of the prior December 31.

(b) Each year during the term of this Agreement, the Company shall deliver to the Greenville County Auditor a copy of their most recent annual filings, showing investments and calculating fee payments, made with the Department with respect to the applicable portions of the Project, not later than thirty (30) days following delivery thereof to the Department.

(c) The Company shall cause a copy of this Agreement, as well as a copy of the completed forms PT-443 of the Department, to be filed with the Greenville County Auditor, the Greenville County Assessor and the Department within thirty (30) days after the date of execution and delivery hereof.

Section 3.21. *Equalization Payments for Early Termination.* In the event of a termination of this Fee Agreement before the end of the Fee Term, the Company shall make any necessary Equalization Payments to the County.

**ARTICLE IV
MISCELLANEOUS**

Section 4.1. *Notices.* Any notice, election, demand, request or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to

the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: Greenville County, South Carolina
County Administrator
Suite 100, County Square
Greenville, South Carolina 29601

WITH A COPY TO: Mark Tollison, Esquire
County Attorney
Suite 100, County Square
Greenville, South Carolina 29601

AS TO THE SPONSOR: Drive Automotive Industries of America, Inc.
ATTN: Controller
120 Moonacres Road
Piedmont, South Carolina 29673

WITH A COPY TO: Parker Poe Adams & Bernstein LLP
1201 Main Street, Suite 1450 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509
Telephone: (803) 255-8000
Facsimile: (803) 255-8017

AS TO THE SPONSOR AFFILIATE: MI Developments (America) Inc.
c/o Granite REIT
ATTN: Legal Department
77 King Street West, Suite 4010
Post Office Box 159
Toronto, Ontario M5K 1H1

Section 4.2. Binding Effect. This Fee Agreement is binding, in accordance with its terms, upon and inure to the benefit of the Company and the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 4.3. Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 4.4. Governing Law. This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 4.5. Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 4.6. Amendments. The provisions of this Fee Agreement may only be modified or amended in writing by an agreement or agreements entered into between the parties.

Section 4.7. Further Assurance. From time to time the County agrees to execute and deliver to the Company such additional instruments as either may reasonably request to effectuate the purposes of this Fee Agreement.

Section 4.8. Severability. If any provision of this Fee Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company the strongest inducement possible to locate the Project in the County.

Section 4.9. Limited Obligation. THE PROJECT SHALL GIVE RISE TO NO PECUNIARY LIABILITY OF THE COUNTY OR ANY INCORPORATED MUNICIPALITY NOR TO ANY CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER.

Section 4.10. Execution Disclaimer. Notwithstanding any other provision, the County is executing as statutory accommodation to assist the Company in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes in reliance upon representations by the Company that this document complies with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chairman of County Council and its County Administrator and to be attested by the Clerk to County Council; and the Company has caused this Fee Agreement to be executed by a duly authorized officer, all as of the day and year first above written.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman, County Council
Greenville County, South Carolina

County Administrator
Greenville County, South Carolina

(SEAL)
ATTEST:

Clerk to Council
Greenville County, South Carolina

[Signature Page to Fee-in-Lieu of Ad Valorem Taxes and Incentive Agreement dated as of []]

**DRIVE AUTOMOTIVE INDUSTRIES OF AMERICA, INC.,
AS SPONSOR**

**BY
ITS**

[Signature Page to Fee-in-Lieu of Ad Valorem Taxes and Incentive Agreement dated as of []]

Dated this _____ day of _____, 2013, and effective as of the date and year first written above.

**MI DEVELOPMENTS (AMERICA) INC.,
AS SPONSOR AFFILIATE**

BY
ITS

BY
ITS

[Signature Page to Fee-in-Lieu of Ad Valorem Taxes and Incentive Agreement dated as of []]

EXHIBIT A
PROPERTY DESCRIPTION

All that piece or parcel of land, together with any and all improvements thereon, situate, lying and being in Greenville County, and being more particularly described as follows: to wit,

BEGINNING at a point at the intersection of Blakely Road (SC 23-316) and Moon Acres Road (County Road E57); thence, with the centerline of Moon Acres Road, North 11-48-55 EAST, a distance of 1163.15 feet; thence, North 11-26-41 East, a distance of 1129.97 feet to a railroad spike; thence, leaving the centerline of said Moon Acres Road with the line of Southern Region Industrial Realty, Inc., South 70-26-32 East, a distance of 1140.20 feet to an iron pin; thence, with the line of Keycon Hardware Products, Inc., South 20-33-32 East, a distance of 1525.49 feet to an iron pin; thence, continuing with the Keycon line, South 41-01-28 West, a distances 1,384.28 feet passing through an iron pin at 1357.73 feet to a point in the centerline of Blakely Road, thence, with the centerline of Blakely Road, the following 10 courses and distances, North 62-45-24 West, a distance of 130.00 feet; North 61-48-54 West, a distance of 233.41 feet; North 61-49-50 West, a distance of 175.00 feet; North 61-56-00 West, a distance of 115,00 feet; North 61-50-16 West a distance of 120.00 feet; North 61-48-54 West, a distance of 170.00 feet; North 62-30-34 West, a distance of 75.00 feet; North 63-12-40 West, a distance of 80.00 feet; North 63-50-12 West, a distance of 115.00 feet; and North 64-10-24 West a distance of 100.00 feet to the point of beginning; containing 86.485 acres, more, or less, and being located substantially as shown on plat entitled "Survey for Drive Automotive Industries of America, Inc.," prepared by James R. Freeland, South Carolina Registered Land Surveyor No. 4781 dated June 30, 1993 attached hereto and made a part hereof.

SUBJECT to those exceptions that have been identified in Schedule B-Section 2 of Lawyers Title Insurance Corporations' Commitment For Title Insurance No. PHG 93-0755 effective July 27, 1993; and

FURTHER SUBJECT to any conditions, restrictions, encumbrances, licenses or easements, whether or not of record.

EXHIBIT B
CALCULATION OF EQUAL ANNUAL PILOT PAYMENTS

**EXHIBIT C
JOINDER AGREEMENT**

Reference is hereby made to that Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement effective [] (“Fee Agreement”), between Greenville County, South Carolina (“County”), and Drive Automotive Industries of America, Inc., as Sponsor, and MI Developments (America) Inc., as Sponsor Affiliate (collectively, “Company”).

1. Joinder to Fee Agreement.

The undersigned hereby (a) joins as a part to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement; (b) acknowledges and agrees that (i) in accordance with Section 3.13 of the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Company for purposes of the Project and such designation has been consented to by the County pursuant to a Resolution adopted by the County on []; (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(A)(19) and Section 12-44-130 of the Act; and (iii) the undersigned shall have all of the rights and obligations of a Sponsor Affiliate as set forth in the Fee Agreement.

2. Capitalized Terms.

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Fee Agreement.

3. Governing Law.

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of choice of law.

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

Name of Entity

By: _____

Name: _____

Its: _____

Address: _____

IN WITNESS WHEREOF, the Sponsor consents to the addition of the above-named entity becoming a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

Date

DRIVE AUTOMOTIVE INDUSTRIES OF AMERICA, INC.

By _____

Its: _____