

FIRST AMENDMENT TO FEE AGREEMENT

This First Amendment to Fee Agreement (the “**Amendment**”) is made and entered into as of this ___ day of October, 2015, by and among Greenville County, South Carolina (the “**County**”), a body politic and corporate and a political subdivision of the State of South Carolina; Drive Automotive Industries of America, Inc., a Delaware corporation authorized to do business in the State (the “**Sponsor**”); MI Developments (America) Inc., a Delaware corporation authorized to do business in the State (“**MIDA**” and a “**Sponsor Affiliate**”); and [Project Heritage], a Delaware corporation authorized to do business in the State and any related or affiliated entities of Project Heritage designated by Project Heritage from time to time (“**Project Heritage**” and a “**Sponsor Affiliate**,” and, together with MIDA, the “**Sponsor Affiliates**,” and, together with the Sponsor and MIDA, the “**Company**”);

WHEREAS, all capitalized terms not specifically defined herein shall have the meaning as defined in the Fee Agreement (as that term is defined below), and if not defined therein shall have the meaning as defined in Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “**Act**”);

WHEREAS, the Sponsor operates a manufacturing facility located in the County (the “**Project**”);

WHEREAS, the County, the Sponsor, and MIDA entered into that certain Fee Agreement, effective as of September 3, 2013 (the “**Original Fee Agreement**”), a copy of which is attached hereto as **Exhibit A**, by which there was created a fee-in-lieu-of-tax arrangement and other incentives with respect to certain property owned by Company and located at the Project;

WHEREAS, pursuant to the Fee Agreement, the Sponsor committed to invest at least \$50,000,000 (the “**Project Commitment**”) in the Project by December 31, 2017 (the “**Investment Period**”);

WHEREAS, as of the date hereof, the Sponsor’s investment in the Project exceeds \$70,000,000, surpassing the Project Commitment;

WHEREAS, Project Heritage has requested that the County authorize the transfer of that certain real property, which is an approximately fifty-five (55) acre portion of a parcel currently known as Greenville Tax Map No. 0409000100103 (the “**New Property**”), to Project Heritage;

WHEREAS, Project Heritage intends to make continuing and further investment in the Project at the New Property of approximately \$50,000,000 (the “**Expansion**”) and has requested the County provide certain economic development incentives to Project Heritage by amending the Original Fee Agreement to expand the definition of Project to include Project Heritage, to designate Project Heritage as a Sponsor Affiliate, to include the New Property in the legal description provided in Exhibit A to the Original Fee Agreement, to extend the Fee Term by ten years, to extend the Investment Period by five years, to extend the special source revenue credit period by five years, and to otherwise reflect the Expansion (the “**Amendments**”);

WHEREAS, the County, contingent on the purchase of the Property, authorized the transfer of the Property to Project Heritage and approved the Amendments by Ordinance No. [NUMBER], dated October [], 2015; and

WHEREAS, the County and the Company now desire to amend the Original Fee Agreement to memorialize the Expansion Amendments.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

1. Condition Precedent.

(a) The effectuation of the Amendments are contingent on Project Heritage acquiring the Property upon the terms set forth in the conveyance instrument from the County to the Property. Should the Company fail to acquire the Property by December 31, 2015, this Amendment shall be null and void and of no further force or effect.

(b) Should Project Heritage not invest \$50,000,000 by the end of the Investment Period, as extended by Section 5 below, the amendments set forth in Section 4 and 6 below shall be null and void and of no further force or effect such that the provisions of the Original Fee Agreement shall control; provided, however, all other amendments provided for herein shall still be effective. Project Heritage shall certify in writing addressed to the Sponsor and the County (to the parties identified in the Original Fee Agreement as well as the Greenville County Auditor and Assessor), on or before the end of the Investment Period, that Project Heritage has invested at least \$50,000,000 (the "*Investment Notice*"). Section 4 and 6 below shall be null and void and of no further force or effect if the Investment Notice is not filed with the County on or before the end of the Investment Period.

2. Expansion of the Project.

(a) The definition of Project under the Original Fee Agreement is hereby amended to include the real and personal property of Project Heritage and all qualifying investments in real and personal property made by Project Heritage.

(b) The Original Fee Agreement is hereby amended to include the New Property, as more particularly described in the attached **Exhibit B**, in the legal description provided in Exhibit A to the Original Fee Agreement.

3. Designation of Sponsor Affiliates.

(a) The Original Fee Agreement is hereby amended to reflect the addition of Project Heritage as the "2015 Sponsor Affiliate."

(b) The Original Fee Agreement is hereby further amended such that the defined term Company now includes the 2015 Sponsor Affiliate.

(c) The Original Fee Agreement is hereby further amended to refer to MI Developments (America), Inc. as the "2013 Sponsor Affiliate."

4. Amendment to Section 2.3 of the Original Fee Agreement.

Section 2.3 of the Original Fee Agreement shall be amended so that each reference to the term "Sponsor Affiliate" is replaced with "2013 Sponsor Affiliate," thereby limiting the representations and obligations set forth therein to the 2013 Sponsor Affiliate.

5. Addition of Section 2.4 to the Original Fee Agreement.

There shall be added a new Section 2.4 to the Original Fee Agreement that reads as follows:

“Section 2.4. Representations of the 2015 Sponsor Affiliate. The 2015 Sponsor Affiliate hereby represents and warrants to the County as follows:

(a) The 2015 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 2015 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 2015 Sponsor Affiliate agrees to be bound by the terms of this Fee Agreement insofar as such terms concern the property owned by the 2015 Sponsor Affiliate which comprises the Project. The 2015 Sponsor Affiliate hereby agrees to indemnify and hold harmless the Sponsor and any existing Sponsor Affiliates for any liabilities, costs, damages of any kind that shall arise out of the 2015 Sponsor Affiliate’s failure to fulfill its obligations set forth herein including loss of incentive benefits caused by a failure of the 2015 Sponsor Affiliate to meet its investment commitment.”

5. Extension of the Fee Term.

The Original Fee Agreement is hereby amended to extend the Fee Term by ten (10) years such that the Fee Term will total thirty (30) years.

6. Extension of the Investment Period.

(a) The Original Fee Agreement is hereby amended to extend the Investment Period by five (5) years such that the Investment Period will be ten (10) years from the Commencement date and the end date will be December 31, 2022.

(b) All other sections of the Agreement shall be revised to reflect an extension of the Investment Period in accordance with this Amendment.

7. Extension of the Special Source Revenue Credit Period.

The Original Fee Agreement is hereby amended by striking Section 3.2(c) in its entirety and replacing it with the following:

“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 ten (10) years for a total of twenty (20) years.”

8. Revision of Joinder Agreement.

Exhibit C to the Original Fee Agreement is hereby amended by striking, in its entirety, the Joinder Agreement appearing therein and replacing it with the Joinder Agreement attached hereto as **Exhibit C**.

9. Remainder of Fee Agreement. Except as described in this Amendment's Sections 1 through 5, the Fee Agreement remains unchanged and in full force.

10. Severability. If any term, provision, or any portion of this Amendment shall to any extent and for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Amendment shall not be affected thereby and shall nevertheless remain in full force and effect, and each term and/or provision of this Amendment shall be valid and enforceable to the fullest extent permitted by the law.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this First Amendment to Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and its County Administrator and to be attested by the Clerk to County Council; and each of the Sponsor, MIDA, and Project Heritage have caused this First Amendment to Fee Agreement to be executed by a duly authorized officer thereof, all as of the day and year first above written.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Bob Taylor Chairman, County Council
Greenville County, South Carolina

By: _____
Joseph M. Kernell, County Administrator
Greenville County, South Carolina

(SEAL)
ATTEST:

By: _____
Theresa B. Kizer, Clerk to County Council
of Greenville County, South Carolina

DRIVE AUTOMOTIVE INDUSTRIES OF AMERICA,
INC., AS SPONSOR

By: _____

Its: _____

MI DEVELOPMENTS (AMERICA) INC., AS
SPONSOR AFFILIATE

By: _____

Its: _____

[PROJECT HERITAGE], AS SPONSOR AFFILIATE

By: _____

Its: _____

Exhibit A

Original Fee Agreement

Exhibit B

**Legal Description of That Certain Real Property Which is a Portion of a
Parcel Currently Known as Greenville Tax Map No. 0409000100103**

Exhibit C

Joinder Agreement

Reference is hereby made to that Fee-in-lieu of *Ad Valorem* Taxes and Incentive Agreement effective September 3, 2013 (the “Original Fee Agreement”), between Greenville County, South Carolina (“County”), Drive Automotive Industries of America, Inc., as Sponsor, and MI Developments (America) Inc., as Sponsor Affiliate, and that First Amendment to Fee Agreement effective October [], 2015 (the “First Amendment,” and together with the Original Fee Agreement, the “Amended Fee Agreement”), among Greenville County, South Carolina (“County”), Drive Automotive Industries of America, Inc., as Sponsor, MI Developments (America) Inc., as Sponsor Affiliate, and Project Heritage, as an additional Sponsor Affiliate.

1. Joinder to Amended 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 Amended Fee Agreement; (b) acknowledges and agrees that (i) in accordance with Section 3.13 of the Amended 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 Amended 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 Amended Fee Agreement.

2. Indemnification of Sponsor and Sponsor Affiliates.

The undersigned hereby agrees to indemnify and hold harmless the Sponsor and any existing Sponsor Affiliates for any liabilities, costs, damages of any kind that shall arise out of the undersigned’s failure to fulfill its obligations under the First Amendment up to including loss of incentive benefits caused by a failure of the undersigned to meet its investment commitment.

3. Capitalized Terms.

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

4. 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.

**[SIGNATURES APPEARS ON FOLLOWING PAGE]
[REST OF THIS PAGE LEFT INTENTIONALLY BLANK]**

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:_____