

ORDINANCE NO. 089.2015 ✓

FILED FOR RECORD
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JOYCE HARRIS
CLERK OF COURTS
KERSHAW COUNTY, SC

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE INCENTIVE AGREEMENTS BY AND AMONG KERSHAW COUNTY, SOUTH CAROLINA AND HAIER AMERICA COMPANY, L.L.C., AND ONE OR MORE EXISTING OR TO-BE-FORMED OR ACQUIRED SUBSIDIARIES, OR AFFILIATED OR RELATED ENTITIES, AS SPONSOR, TO PROVIDE FOR FEE IN LIEU OF AD VALOREM TAXES INCENTIVES AND CERTAIN SPECIAL SOURCE REVENUE CREDITS; AND OTHER RELATED MATTERS.

WHEREAS, Kershaw County, South Carolina (the "County"), acting by and through its County Council (the "County Council") is authorized by Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the "Act"), and Article VIII, Section 13 of the South Carolina Constitution (i) to enter into agreements with qualifying companies to encourage investment in projects constituting economic development property through which the economic development of the State of South Carolina (the "State") will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; (ii) to covenant with such industry to accept certain fee payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment; (iii) to grant credits against FILOT payments to qualifying companies to offset qualifying infrastructure related expenditures ("Special Source Revenue Credits") pursuant to Sections 4-1-175, 4-29-68 and 12-44-70 of the Code of Laws of South Carolina 1976, as amended (collectively, "Infrastructure Credit Act"); (iv) under Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended ("MCIP Act") to create multi-county industrial parks with one or more contiguous counties and include certain properties therein, and, in its discretion, include within the boundaries of these parks the property of qualifying industries, and under the authority provided in the MCIP Act, the County has created previously a multi-county park with Sumter County, South Carolina ("Park") through that Agreement for the Development of a Joint County Industrial and Business Park (the "Park Agreement") dated April 27, 1999, as amended; and (v) to make and execute contracts of the type hereinafter described pursuant to Section 4-9-30 of the Code of Laws of South Carolina 1976, as amended; and

WHEREAS, Haier America Company, L.L.C., a Delaware limited liability company, authorized to conduct business in South Carolina, along with one or more existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities (the "Company"), along with any Sponsor Affiliate(s) is planning an expansion consisting of the expenditure of approximately \$72,134,500 ("Investment") in the County and the creation of approximately 410 new, full-time jobs ("Jobs") in the County through the acquisition, construction and purchase of certain land, buildings, furnishings, fixtures, apparatuses, and equipment for the purpose of establishing a manufacturing facility in the County (collectively, the "Project"); and

WHEREAS, by its Resolution adopted on August 11, 2015, the County identified the Project, as required by the Act; and

WHEREAS, the Project will comprise one or more parcels of real property or a portion thereof and improvements thereon, the description of which is set forth on the attached **Exhibit A** ("Project Property"); and

WHEREAS, the County confirms that the Project Property is currently included in the Park and that no further action is required to include the Project Property in the Park, and agrees and to use its best

efforts to ensure that the Project Property remains in the Park or in any other multi-county park created under the MCIP Act for no less than the term of the Fee Agreement; and

WHEREAS, in connection with the Project, the Company has requested the County to enter into certain incentive agreements, to the extent and subject to the conditions provided in those agreement, in connection with the commitments of the Company to make the Investment; and

WHEREAS, the County has determined provide certain incentives, including but not limited to, the following: (i) the incentive of a FILOT arrangement and a fee-in-lieu of *ad valorem* taxes agreement with the Company, the form of which is attached as Exhibit B ("Fee Agreement"), with the principal terms as follows: a 30-year term, a fixed assessment ratio of 6%, and a fixed millage rate equal to the lower of the millage rates in effect at the Project site, for all taxing entities, at the date the Fee Agreement is executed or the year prior; (ii) an annual Special Source Revenue Credit against those Real Property FILOT payments made by the Company to the County equal to ninety percent (90%) for a period of ten (10) years ("Real Property SSRC"); (iii) an annual Special Source Revenue Credit against those Personal Property FILOT payments made by the Company to the County equal to seventy percent (70%) for property tax years one (1) through three (3) and fifty percent (50%) for property tax years four (4) through ten (10) ("Personal Property SSRC"); and (iv) any other incentives that may be set forth in the Fee Agreement or other agreements by and between the County and the Company (collectively, the "Incentives"); and

WHEREAS, Haier America Research & Development Co., Ltd., a Delaware corporation, authorized to conduct business in South Carolina ("Sponsor Affiliate 1") and Haier America Holding Corp., a Delaware corporation, authorized to conduct business in South Carolina ("Sponsor Affiliate 2," collectively with Sponsor Affiliate 1, the "Sponsor Affiliates") (a) intend to participate in the investment under the Fee Agreement, (b) will execute with the Company a Joinder Agreement, the form of which is attached as Exhibit C, and therefore wish to be approved by the County as Sponsor Affiliates, pursuant to Section 12-44-10 of the Act and as further defined in the Fee Agreement; and

WHEREAS, the parties recognize and acknowledge that the Company would not otherwise locate the Project in the County but for the delivery of the Incentives.

NOW, THEREFORE, BE IT ORDAINED BY THE KERSHAW COUNTY COUNCIL DULY ASSEMBLED THAT:

Section 1. Findings. The County hereby finds and affirms based on information provided by the Company: (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its 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 are greater than the costs to the public.

Section 2. Authorization to Execute and Deliver Fee Agreement. The County Council authorizes and directs the County Council Chairman and the County Administrator to execute the Fee Agreement (which includes the provision of certain Special Source Revenue Credits), with any minor modifications and revisions which shall not be materially adverse to the County and shall be deemed approved by the County Council upon the Chairman's and the County Administrator's execution of the Fee Agreements, and the Clerk to County Council is authorized and directed to attest the same; and the Clerk to County Council is further authorized and directed to deliver the executed Fee Agreement to the Company.

Section 3. Multi-County Park. The County Council shall use its best efforts to ensure that the Project Property remains in the Park or in any other multi-county park created under the MCIP Act for no less than the term the Fee Agreement.

Section 4. Sponsor Affiliates. The County confirms and ratifies the Sponsor Affiliates participation in the Fee Agreement as contemplated under the Act and the Fee Agreement.

Section 5. Further Acts. The County Council authorizes the County Administrator, other County staff, and the County Attorney, along with any designees and agents who any of these officials deems necessary and proper, in the name of and on behalf of the County (each an "Authorized Individual"), to take whatever further actions, and enter into whatever further agreements, as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Ordinance and induce the Company to locate the Project in the County.

Section 6. General Repealer. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 7. Severability. Should any part, provision, or term of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Ordinance or any part, provision or term thereof, all of which is hereby deemed separable.

This Ordinance takes effect and is in full force only after the County Council has approved this Ordinance following three readings and a public hearing.



(SE)

ATTEST:

Merri Seigler
Merri Seigler, Clerk to Council
Kershaw County Council

KERSHAW COUNTY, SOUTH CAROLINA

Julian Burns
Julian Burns, Chairman
Kershaw County Council

Victor C. Carpenter
Victor C. Carpenter
County Administrator

First Reading: August 11, 2015
Second Reading: August 25, 2015
Third Reading: September 8, 2015
Public Hearing: September 8, 2015

EXHIBIT A

PROPERTY DESCRIPTION

The Project Property is comprised of certain real property located in Kershaw County bearing Tax Map No. 314-00-00-067.

EXHIBIT B

FEE AGREEMENT

[Attached]

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

BY AND BETWEEN

HAIER AMERICA COMPANY, L.L.C.

AND

KERSHAW COUNTY, SOUTH CAROLINA

SEPTEMBER 8, 2015

PREPARED BY:

**PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450
COLUMBIA, SOUTH CAROLINA 29201
(803) 255-8000**

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EXHIBIT A: Property Description

EXHIBIT B: Investment Period Certification Form

EXHIBIT C: Maintenance Period Certification Form

EXHIBIT D: Joinder Agreement

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AND ECONOMIC DEVELOPMENT AGREEMENT ("Fee Agreement") is made and entered into as of September 8, 2015, by and between Kershaw 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 Kershaw County Council ("County Council") as the governing body of the County and Haier America Company, L.L.C., a Delaware limited liability company, authorized to conduct business in South Carolina, along with its affiliated or related entities, and assigns, as Sponsor (collectively, "Company") and any other party that may join as a Sponsor Affiliate as the term is defined in this Agreement (hereinafter, the County, the Company, and any of any Sponsor Affiliates are each referred to individually as a "Party" and, collectively, as "Parties").

WITNESSETH:

(a) The County acting by and through its County Council is authorized by Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (collectively "Act"), and Article VIII, Section 13 of the South Carolina Constitution (i) to enter into agreements with qualifying companies to encourage investment in projects constituting economic development property through which the economic development of the State will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; (ii) to covenant with such industry to accept certain fee payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment; (iii) to provide credits to qualifying companies to offset qualifying infrastructure related expenditures pursuant to Sections 4-1-175, 4-29-68 and 12-44-70 of the Code of Laws of South Carolina 1976, as amended ("Infrastructure Credit Act"); and (iv) to make and execute contracts of the type hereinafter described pursuant to Section 4-9-30 of the Code; and

(b) Pursuant to the Act, the County has determined that (i) the Project (as defined herein) will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project will not give rise to any pecuniary liability of the County or any 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; and

(c) The Company, as Sponsor, along with one or more existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities and any Sponsor Affiliates (as defined in this Agreement) that the Sponsor may designate and have the County approve in accordance with the Act, contingent upon satisfaction of certain commitments made by and on behalf of the County, as set forth herein to be further set forth in future agreements, and, to the extent allowed by law, plans to expand a manufacturing facility in the County through the acquisition, lease, construction and purchase of certain land, buildings, furnishings, fixtures, apparatuses, and equipment (the "Project"), which will result in approximately \$72,134,000 of new investment in real and personal property in the County ("Investment") and approximately 410 jobs ("Jobs"); and

(d) The County and the Company previously entered into a fee-in-lieu of *ad valorem* taxes agreement in December of 2000, (the "2000 Fee Agreement") related to the establishment of a manufacturing facility in the County. The County acknowledges that the Company has met its investment obligations under the 2000 Fee Agreement and waives any claims relating to the Company's investment obligations under the 2000 Fee Agreement; and

(g) Pursuant to a Resolution adopted August 11, 2015, the County Council identified the Project, as required under the Act, and pursuant to County Council Ordinance adopted on September 8, 2015, ("Fee Ordinance"), authorized (i) the execution and delivery of this Fee Agreement; (ii) the grant of Special Source Revenue Credits (defined below) in amounts as more fully described in this Fee Agreement; and (iii) other incentives further described in this Fee Agreement.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto 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.

"Act Minimum Investment" shall have the meaning given to such term under Section 12-44-30(14) of the FILOT Simplification Act.

"Baseline Employment" shall mean the 115 full-time jobs employed by the Company or any affiliate thereof as of June 19, 2015 in the County.

"Chair" means the Chair 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 earlier of: (a) the last day of the first property tax year during which Economic Development Property (defined below) is placed in service; or (b) the last day of the property tax year that is three years from the year in which the Parties entered into this Fee Agreement.

"County" means Kershaw County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina, its successors and assigns, acting by and through the Kershaw County Council as the governing body of the County.

"County Council" means the Kershaw County Council, the governing body 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 Company's, or, as applicable, any Sponsor Affiliate's removal of equipment pursuant to Section 3.8 of this Fee Agreement, (ii) a casualty to the Phase of the Project, or any part thereof, described in Section 3.9 of this Fee Agreement, or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 3.10 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 which are identified by the Company and, as applicable, any Sponsor Affiliate in connection with its annual filing of a SCDOR 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, as that period may be extended by subsequent, formal action of County Council, or automatically as permitted under the Act or under this Fee Agreement. Title to all Economic Development Property shall at all times remain vested in the Company and, as applicable, in any Sponsor Affiliate, except as may be necessary to take advantage of the effect of Section 12-44-160 of the Act.

"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 Company and, as applicable, any Sponsor Affiliate, 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* tax(es).

"FILOT Payment(s)" means the payment(s) in lieu of *ad valorem* tax(es) which the Company and, as applicable, any Sponsor Affiliate, is obligated to pay to the County.

"Improvements" mean improvements, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company and, as applicable, any Sponsor Affiliate, during the Investment Period as part of the Project.

"Industrial Development Park" shall mean a multi-county industrial and business park as further defined in Section 4-1-170 of the Code.

"Investment" shall mean that amount set forth in the recitals of this Fee Agreement and shall include but not be limited to (i) taxable expenditures, without regard to depreciation, which are made by the Company or any Sponsor Affiliate towards or for the benefit of the Project; (ii) capital expenditures, whether considered Economic Development Property or non-Economic Development Property, without regard to the depreciation, which are made by the Company or any Sponsor Affiliate towards or for the benefit of the Project, regardless of the source of payment of such expenditures; (iii) the value of any assets leased by the Company or any Sponsor Affiliate, without regard to the depreciation, regardless of the source of payment of such expenditures so long as the value of such leased assets are reported by the Company or any Sponsor Affiliate on their respective SCDOR PT-300; and (iv) any other expenditures made by the Company or any Sponsor Affiliate that the County and the Company and, as applicable, any Sponsor Affiliate, may mutually agree upon in a writing that is executed by an authorized representative of the Company and the County Administrator.

"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. The minimum investment must be completed within five years of the Commencement Date. The Investment Period is expected to end December 31, 2021. Pursuant to Section 12-44-30(13) of the Act, the County may, at its discretion, extend this period.

"Maintenance Period" shall mean the five year period beginning with the first year after the Investment Period.

"Minimum Investment Requirement" shall mean an investment of at least \$72,000,000 in property subject to ad valorem taxation (in the absence of this Fee Agreement and/or the Industrial Development Park) by the Company or any Sponsor Affiliate.

"Minimum Job Requirement" shall mean the creation of at least 410 new, full time jobs by the Company or any affiliate thereof over and above the Baseline Employment.

"Personal Property" means any property other than Real Property comprising the Project which are identified by the Company and, as applicable, any Sponsor Affiliate, in connection with its annual filing of a SCDOR PT-300 or comparable forms with the Department (as such filing may be amended from time to time).

"Phase" or "Phases" in respect to the portion of the Project under this Fee Agreement means the Economic Development Property 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-nine years after 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 twenty-ninth full calendar year, after the Commencement Date.

"Project" shall be further defined to include the Equipment, Improvements, and Real Property, together with the acquisition, lease, construction, installation, design and engineering thereof, in phases.

"Real Property" means the real property upon which any part of the Project is to be constructed and expanded, as described or referenced in Exhibit A attached hereto and as supplemented from time to time, 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 and, as applicable, any Sponsor Affiliate; 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 and, as applicable, any Sponsor Affiliate, as the case may be, 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 and, as applicable, any Sponsor Affiliate, in their sole discretion, determine 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 and, as applicable, any Sponsor Affiliate, in their sole discretion, elect to remove pursuant to Section 3.9(c) or Section 3.10(b)(iii) 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, as applicable, any Sponsor Affiliate and treated as a Removed Component under Section 3.8 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.

“Sponsor Affiliate” means an affiliate that joins with or is an affiliate of the Company whose investment with respect to the Project shall be considered part of the Investment and qualify for FILOT Payments and other benefits pursuant to Section 3.1 hereof and Sections 12-44-30(A) and 12-44-130 of the Act and who joins and delivers a Joinder Agreement in a form substantially similar to that attached hereto as Exhibit D.

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 and, as applicable, any Sponsor Affiliate 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.

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

(a) The Company is a corporate entity, duly organized under the laws of the State of Delaware and authorized to transact business under the laws of the State of South Carolina, and has the power to enter into this Fee Agreement.

(b) The Company’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 Company restriction or any agreement or instrument to which the Company is now a party or by which it is bound.

(c) The Company intends to operate the Project as a “project” within the meaning of the Act as in effect on the date hereof.

ARTICLE III FILOT PAYMENTS

Section 3.1 *Negotiated Payments.*

(a) Pursuant to Section 12-44-50 of the Act, the Company and, as applicable, any Sponsor Affiliate, are required to make FILOT Payments on all Economic Development Property comprising the Project and placed in service, with respect to each Phase of the Project, on or before each December 31 within the Investment Period.

(b) The amount of such annual FILOT Payments shall be determined by the following procedure:

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 twenty-nine (29) years, unless extended by the Parties in accordance with the Act, 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 of Revenue and Taxation 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 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 6.0% 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 and in each of the twenty-nine years thereafter or such longer period of years that the annual fee payment is permitted to be made by the Company and, as applicable, by any Sponsor Affiliate, under the Act.

Step 3: Multiply the taxable value determined in the preceding step by a millage rate equal to 298.1 mills, which is believed to be that rate in effect on June 30, 2015 for all taxing entities for the Project site (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 for a total of thirty (30) years for each item of eligible Project property, or such longer period of years that the annual fee payment is permitted to be made by the Company and, as applicable, any Sponsor Affiliate, under the Act.

Step 4: With respect to the initial ten (10) annual FILOT Payments paid to the County, the County will request that the County Auditor subtract from the FILOT Payment to be invoiced to the Company and, as applicable, any Sponsor Affiliate, an amount equal to the value of the annual Special Source Revenue Credits as further defined under Section 3.2 and Section 3.3 of this Fee Agreement (each an SSRC, and together, the "SSRCs"). The Company recognizes, however, that the County Auditor is a separately elected County official and the County cannot direct the County Auditor to comply with the terms of this Fee Agreement.

(c) The County confirms that the property described in Exhibit A is currently included in the multi-county park with Sumter County, South Carolina ("Park") through that Agreement for the

Development of a Joint County Industrial and Business Park (the "Park Agreement") dated April 27, 1999, as amended, and that no further action is required to include that property in the Park. The County shall ensure that such property will remain in the Park during the Fee Term. If, for any reason, the Park Agreement is modified, or otherwise terminated, then the County shall ensure that the property shall be immediately placed into another multi-county park arrangement established pursuant to the MCIP Act, to which the County is party and that would enable the Sponsor and any Sponsor Affiliate receive the benefits afforded by having the property incorporated into a Park.

(d) In the event that the Act and/or the above-described FILOT Payments or Special Source Revenue Credits 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, to the extent authorized by law, be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company and, as applicable, any Sponsor Affiliate, with the benefits to be derived hereunder. 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 by the Company, or any Sponsor Affiliate, as applicable, 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 from the Company, or any Sponsor Affiliate, as applicable, as the case may be, with respect to a year or years for which payments in lieu of *ad valorem* taxes have been previously remitted by the Company or any Sponsor Affiliate, as applicable, to the County hereunder, shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company, or any Sponsor Affiliate, as applicable, with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law.

Section 3.2 Personal Property Special Source Revenue Credit. As an inducement for the Investment and in accordance with Section 12-44-70 of the Act, the County grants to the Company, and, as applicable, any Sponsor Affiliate, a Special Source Revenue Credit ("Personal Property SSRC") benefits equal to the following:

- seventy percent (70%) of the value of the annual FILOT Payment due in connection with the Personal Property investment for years one (1) through three (3) of the Credit Period; and
- fifty percent (50%) of the value of the annual FILOT Payment due in connection with the Personal Property investment for years four (4) through ten (10) of the Credit Period beginning with the first year for which a FILOT Payment becomes due. (the Credit Period represents tax years one (1) through ten (10) beginning with the first year in which a FILOT Payment is due).

With respect to the Personal Property SSRC, the County will request that the County Auditor reflect the Personal Property SSRC against the FILOT Payment on those FILOT invoices provided by the County to the Company and any Sponsor Affiliate. The Company, and, as applicable, any Sponsor Affiliate, shall be permitted to utilize the Personal Property SSRC to offset any qualifying expenditures as provided under the Infrastructure Credit Act.

Section 3.3 Real Property Special Source Revenue Credit. As an inducement for the Investment and in accordance with Section 12-44-70 of the Act, the County grants to the Company, and, as applicable, any Sponsor Affiliate, a Special Source Revenue Credit ("Real Property SSRC") benefits equal to ninety percent (90%) of the value of the annual FILOT Payment in connection with the Real Property

investment for years one (1) through ten (10) of the Credit Period beginning with the first year for which a FILOT Payment becomes due.

With respect to the Real Property SSRC, the County will request that the County Auditor reflect the Real Property SSRC against the FILOT Payment on those FILOT invoices provided by the County to the Company and any Sponsor Affiliate. The Company, and, as applicable, any Sponsor Affiliate, shall be permitted to utilize the Real Property SSRC to offset any qualifying expenditures as provided under the Infrastructure Credit Act.

Section 3.4 Adjustment and Repayment of SSRC Benefits.

(a) No later than four months after the last day of the Investment Period (which the Parties believe to be April 30, 2022 for an Investment Period ending December 31, 2021), the Company shall submit the Investment Period Certification Form attached hereto as **Exhibit B**, which shall demonstrate the Company's compliance with the Minimum Investment Requirement and Minimum Job Requirement as of the end of the Investment Period. If the Overall Achievement Percentage, as defined below and as reported in the Investment Period Certification Form, is equal to or greater than 90%, the Company shall be deemed by the County to have met its commitments under this Fee Agreement. If the Overall Achievement Percentage is less than 90%, the Company shall repay a proportionate amount of SSRCs received as of the end of the Investment Period, calculated as follows:

Repayment Amount = Amount of SSRCs Received x (100% - Overall Achievement Percentage)

Overall Achievement Percentage = (Investment Achievement Percentage + Jobs Achievement Percentage) / 2

Investment Achievement Percentage = New Investment (Without Regard to Depreciation) Invested by the Company as of the end of the Investment Period / Minimum Investment Requirement

Jobs Achievement Percentage = New, Full-Time Jobs Created in the County by the Company as of the end of the Investment Period (not including the Baseline Employment) / Minimum Job Requirement

For example, and by way of example only, if the Company invested \$54,000,000 and created 246 new, full-time jobs in the County as of the end of the Investment Period and collectively received \$100,000 in SSRCs, the Repayment Amount would equal \$37,500, calculated as follows:

Investment Achievement Percentage = $\$54,000,000 / \$72,000,000 = 75\%$

Jobs Achievement Percentage = $205 / 410 = 50\%$

Overall Achievement Percentage = $(75\% + 50\%) / 2 = 62.5\%$

Repayment Amount = $\$100,000 \times (100\% - 62.5\%) = \$37,500$

(b) No later than four months after the last day of each year of the Maintenance Period (which the Parties believe to be April 30, 2023 for an Investment Period ending December 31, 2021), the Company shall submit on an annual basis for each remaining year of the Maintenance Period the Maintenance Period Certification Form attached hereto as **Exhibit C**, which shall be used to calculate any prospective adjustment to the Personal Property SSRC and the Real Property SSRC ("SSRC Adjustment"). The SSRC Adjustment shall be calculated as follows:

SSRC Adjustment = Overall Maintenance Percentage * Applicable SSRC (90% if Real Property SSRC)

Overall Maintenance Percentage = (Investment Maintenance Percentage + Jobs Maintenance Percentage) / 2

Investment Maintenance Percentage = New Investment (Without Regard to Depreciation) Invested by the Company as of the end of the applicable year of the Maintenance Period / Minimum Investment Requirement

Jobs Maintenance Percentage = New, Full-Time Jobs Created in the County by the Company as of the end of the applicable year of the Maintenance Period (not including the Baseline Employment) / Minimum Job Requirement

For example, and by way of example only, if the Company invested \$46,800,000 and created 328 new, full-time jobs in the County as of the end of the applicable year of the Maintenance Period, SSRC Percentage for both the Real Property SSRC would be calculated as follows:

Investment Maintenance Percentage = \$46,800,000 / \$72,000,000 = 65%

Job Maintenance Percentage = 328 / 410 = 80%

Overall Maintenance Percentage = (65% + 80%) / 2 = 72.5%

SSRC Adjustment (for the Real Property SSRC) = 65.25 % = Overall Maintenance Percentage * 90% (assuming Real Property SSRC)

Section 3.5 FILOT Payments on Replacement Property. If the Company and, as applicable, any Sponsor Affiliate, elect 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 Company and, as applicable, any Sponsor Affiliate, shall make statutory payments in lieu of *ad valorem taxes* 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 to be made by the Company and, as applicable, any Sponsor Affiliate, 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 thirty (30) (or, if greater, the maximum number of years for which the annual fee payments are available to the Company and, as applicable, any Sponsor Affiliate, for each portion of the Project under the Act, as amended) 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 by the Company and, as applicable, any Sponsor Affiliate, 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 3.6 Reductions in Payments of Taxes Upon Removal, Condemnation or Casualty. In the event of a Diminution in Value of any Phase of the Project after the Investment Period and during the remainder of the Fee Term, 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.

Section 3.7 Place and Allocation of FILOT Payments. The Company and, as applicable, any Sponsor Affiliate, shall make the above-described FILOT Payments directly to the County in accordance with applicable law as to payment, collection and enforcement of FILOT Payments. FILOT Payments are to be allocated in accordance with the Act.

Section 3.8 Removal of Equipment. Subject always to Section 3.3 and to the statutory requirement to maintain the Minimum Investment in the Project in order to maintain the FILOT arrangement herein, the Company and, as applicable, any Sponsor Affiliate, 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, and, as applicable, any Sponsor Affiliate, in their sole discretion, determine 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, and, as applicable, any Sponsor Affiliate, in their sole discretion, elect to remove pursuant to Section 3.9(c) or Section 3.10(b)(iii) hereof.

Section 3.9 Damage or Destruction of Project.

(a) **Election to Terminate.** In the event the Project is damaged by fire, explosion, or any other casualty, the Company and, as applicable, any Sponsor Affiliate, shall be entitled to terminate this Fee Agreement pursuant to Section 3.23.

(b) **Election to Rebuild.** In the event the Project is damaged by fire, explosion, or any other casualty, and if the Company and, as applicable, any Sponsor Affiliate, do not elect to terminate this Fee Agreement, the Company and, as applicable, any Sponsor Affiliate may, in their 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 Company and, as applicable, any Sponsor Affiliate. 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 by the Company and, as applicable, any Sponsor Affiliate, to the County under Section 3.1 hereof, to the extent allowed by the Act.

(c) **Election to Remove.** In the event the Project is damaged by fire, explosion, or any other casualty, and the Company and, as applicable, any Sponsor Affiliate, elect not to terminate this Fee 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.

Section 3.10 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 Company and, as applicable, any Sponsor Affiliate, then the Company or any Sponsor Affiliate (with respect to its Project property only) shall have the option to terminate this Fee Agreement pursuant to Section 3.23.

(b) *Partial Taking.* In the event of a partial taking of the Project or transfer in lieu thereof, the Company and, as applicable, any Sponsor Affiliate, may elect: (i) to terminate this Fee Agreement pursuant to Section 3.23; (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 Company and, as applicable, any Sponsor Affiliate; or (iii) to treat the portions of the Project so taken as Removed Components.

Section 3.11 Maintenance of Existence. The Company and, as applicable, any Sponsor Affiliate agree (i) that they shall not take any action which will materially impair the maintenance of their corporate existence and (ii) that they will maintain their good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the corporate existence of the Company or, as applicable, any Sponsor Affiliate, that result from internal restructuring or reorganization of the Company or, as applicable, any Sponsor Affiliate, or their parents are specifically authorized hereunder; and further, the Company and, as applicable, any Sponsor Affiliate are entitled to cease operations of the Project at any time without that cessation constituting an Event of Default under this Fee Agreement. Likewise, benefits granted to the Company and, as applicable, any Sponsor Affiliate, 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. Such transfers to a successor entity substantially similar in nature and function to the Company and, as applicable, any Sponsor Affiliate, are specifically approved and authorized by the County without any further action by the County Council.

Section 3.12 Confidentiality/Limitation on Access to Project. The County acknowledges and understands that the Company and, as applicable, any Sponsor Affiliate, utilize confidential and proprietary "state-of-the-art" information and data in their operations, and that a disclosure of any information, including, but not limited to, disclosures of financial or other information concerning the Company's operations and, as applicable, any Sponsor Affiliate's operations, could result in substantial harm to them and could thereby have a significant detrimental impact on their 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 knowingly and intentionally 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. Notwithstanding the foregoing, whenever the County shall be required by any governmental or financial entity to file or produce any reports, notices, returns or other documents while the Fee Agreement is in effect, the Company or owner of the Project at the time shall promptly furnish to the County through the County Attorney the completed form of such required documents together with a certification by the Company or owner that such documents are accurate and not in violation of any provisions of law or of the other documents of this transaction, and that the documents meet the legal requirements of such filing or delivery. In the event of the failure or refusal of the Company or owner to comply with this provision, the Company or owner agrees to pay the statement for attorneys fees and administrative time presented by the County for producing and filing such documents, such statement to be paid within thirty (30) days after presentation by the County, and to promptly pay any fees, penalties, assessments or damages imposed upon

the County by reason of its failure to duly file or produce such documents. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Company and, as applicable, any Sponsor Affiliate, 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 *Addition of Sponsor Affiliates.* Upon request of and at the expense of the Company, the County may approve any future Sponsor Affiliate that qualifies under the Act for the benefits offered under this Fee Agreement.

Section 3.14 *Assignment and Subletting.* This Fee Agreement may be assigned in whole or in part and the Project may be subleased as a whole or in part by the Company and, as applicable, any Sponsor Affiliate, so long as such assignment or sublease is made in compliance with Section 12-44-120 of the Act. To the extent any consent of the County for such assignment or sublease is required by the Act and requested, the County may grant such consent by adoption of a Resolution, not to be unreasonably withheld.

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 by the Company or, as applicable, any Sponsor Affiliate, to make, upon levy, the FILOT Payments described in Section 3.1 hereof; provided, however, that the Company or, as applicable, any Sponsor Affiliate, shall be entitled to all redemption rights for non-payment of taxes granted by applicable statutes; or

(b) Failure of the Company or, as applicable, any Sponsor Affiliate, to make payment of any other amounts payable to the County under the Agreement, of which default has not been cured within ninety (90) days of written notice of nonpayment from the County; or

(c) Failure by the Company or, as applicable, any Sponsor Affiliate, to perform any of the other material terms, conditions, obligations or covenants of the Company or, as applicable, any Sponsor Affiliate hereunder, which failure shall continue for a period of ninety (90) days after written notice from the County to the Company or, as applicable, any Sponsor Affiliate, 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.

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 or, as applicable, any Sponsor Affiliate (a copy of which shall be provided to the Company by the County), of such default and after the expiration of a ninety (90) day cure period 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 or, as applicable, any Sponsor Affiliate, under this Fee Agreement.

- (c) With regard to the SSRC, the sole remedy shall be the remedy provided in Section 3.4.

Section 3.17 Collection of FILOT Payments. 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* taxes to collect any FILOT Payments due hereunder.

Section 3.18 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 3.19 Leased Equipment. To the extent that applicable law allows or is revised or construed to allow the benefits of the Act, in the form of FILOT Payments as described in Section 3.1 hereof, to be applicable to Equipment and/or personal property to be installed at the Project and leased to but not purchased by the Company and, as applicable, any Sponsor Affiliate, from at least one third party, under any form of lease, then that property, at the Company's or Sponsor Affiliate's sole election, will become subject to FILOT Payments to the same extent as the Equipment under this Fee Agreement, upon proper application of the law and applicable procedures by the Company, and, as applicable, any Sponsor Affiliate and so long as the value of such leased assets are reported by the Company or any Sponsor Affiliate, as applicable, on their respective SCDOR PT-300.

Section 3.20 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, to the extent that, and so long as, the Company provides the County with copies of all filings which the Company is required to make pursuant to the Act.

Section 3.21 Fiscal Year; Property Tax Year. If the Company's and, as applicable, any Sponsor Affiliate's, fiscal year changes so as to cause a change in the Company's property tax year, then the timing of the requirements of this Fee Agreement are automatically revised accordingly.

Section 3.22 Reports; Filings.

(a) Each year during the term of this Fee Agreement, the Company, and any Sponsor Affiliate, shall deliver to the Kershaw County Auditor a copy of their most recent annual property tax returns filed with the Department with respect to the applicable portions of the Project.

(b) 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 Kershaw County Auditor, the Kershaw County Assessor and the Department within thirty (30) days after the date of execution and delivery hereof.

Section 3.23 Termination. Prior to the stated expiration of the Term of this Agreement, the Company may, at any time by written notice to the County, provide for the termination of this Agreement,

effective immediately upon giving such notice or upon such date as may be specified in the notice; provided that the Company shall have made payment to the County of all applicable payments payable under this Agreement as of such time. Upon any such termination, and subject to any provisions herein which shall by their express terms be deemed to survive any termination of this Agreement, the sole consequence to the Company shall be that it shall no longer be entitled to the benefit of the FILOT Payments provided herein and the property constituting the Project shall thereafter be subject to ad valorem tax treatment required by law and, except as may be expressly provided herein, in no event shall the Company be required to repay to the County the amount of any tax benefit previously received hereunder.

Section 3.24 *Addition of Sponsor Affiliates.* Upon request of and at the expense of the Company, the County may approve any future Sponsor Affiliate that qualifies under the Act for the benefits offered under this Fee Agreement and which agrees to be bound by the provisions hereof to be further evidenced by such future Sponsor Affiliate entering into a Joinder Agreement in the form attached to this Fee Agreement subject to any changes approved by the Chair that are not materially adverse to the County.

Section 3.25 *Payment of Administrative Expenses.* The Company will reimburse, or cause reimbursement to, the County from time to time for reasonable and necessary amounts that are customary and standard, including reasonable attorney's fees and costs, actually incurred, or that will be actually incurred, by the County with respect to the County's fulfillment of its obligations under the Fee Agreement and other documents in connection with the Project ("Transaction Documents") in the implementation of its terms and provisions ("Administrative Expenses"). The Company will make such reimbursement of Administrative Expenses upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the incentives authorized by the Transaction Documents. The parties understand that counsel to the County may invoice the Company for those expenses related to the review of the Transaction Documents and all resolutions, ordinances and other documentation related thereto in an amount not to exceed \$9,000.

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 three business days after 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:

Kershaw County, South Carolina
ATTN: Victor J. Carpenter
County Administrator
515 Walnut Street
Camden SC 29020
Telephone: (803) 425-1501
Facsimile: (803) 425-1546
Email: vic.carpenter@kershaw.sc.gov

WITH A COPY TO:
(shall not constitute notice)

Kershaw County, South Carolina
ATTN: J. Kennedy Dubose, Jr.
County Attorney
935 Broad Street
Camden, SC 29020
Telephone: (803) 432-1992
Facsimile: (803) 432-0784
Email: ken@duboselaw.com

AS TO THE COMPANY:

Haier America Company, L.L.C.
ATTN: Michaelangelo Troisi
1800 Valley Road
Wayne, New Jersey 07470
Telephone: (973) 617-1858
Email: mtroisi@haieramerica.com

WITH A COPY TO:
(shall not constitute notice)

Parker Poe Adams & Bernstein LLP
ATTN: Sam C. Moses, Esquire
1201 Main Street, Suite 1450
Columbia, South Carolina 29202
Telephone: (803) 255-8000
Facsimile: (803) 255-8017
Email: sammoses@parkerpoe.com

Section 4.2 *Binding Effect.* This Fee Agreement is binding, in accordance with its terms, upon and inure to the benefit of the Company, any Sponsor Affiliate and the County, and their respective successors and assigns, to the extent allowed by law. 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 lawfully entered into between the parties.

Section 4.7 *Further Assurance.* From time to time, and at the Company's and Sponsor Affiliate's expense, the County agrees to execute and deliver to the Company and Sponsor Affiliate 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, and, as applicable, any Sponsor Affiliate, with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company and, as applicable, any Sponsor Affiliate, the strong inducement to locate the Project in the County.

Section 4.9 Limited Obligation. NEITHER THE PROJECT NOR THE NEGOTIATION, EXECUTION, DELIVERY OR IMPLEMENTATION OF THIS FEE AGREEMENT SHALL GIVE RISE TO ANY PECUNIARY LIABILITY OF THE COUNTY OR ANY INCORPORATED MUNICIPALITY NOR TO ANY CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER.

Section 4.10 Indemnification.

(a) Except as provided in paragraph (b) below, the Company 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 the Transaction Documents, performance of the County's obligations under the Transaction Documents or the administration of its duties pursuant to the Transaction Documents, or otherwise by virtue of the County having entered into the Transaction Documents. If such a claim is made against any Indemnified Party, then subject to the provisions of (b) below, the Company shall defend the Indemnified Party in any action or proceeding.

(b) Notwithstanding anything herein to the contrary, the Company 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 the Transaction Documents, performance of the County's obligations under the Transaction Documents, or the administration of its duties under the Transaction Documents, or otherwise by virtue of the County having entered into the Transaction Documents; (2) resulting from that Indemnified Party's own 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 Company 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 Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

(d) Following this notice, the Company shall resist or defend against any claim or demand, action or proceeding, at its expense, using counsel of its choice. The Company 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 Company 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.

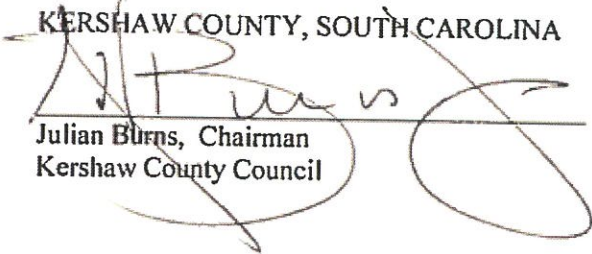
Section 4.11 Force Majeure. The Company shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, economic downturns affecting the U.S. consumer appliance industry and any other cause, similar or dissimilar, beyond the Company's reasonable control.

[signatures on following pages]

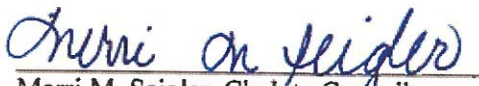
IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and the County Administrator and to be attested by the Clerk to County Council; the Company has caused this Fee Agreement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



KERSHAW COUNTY, SOUTH CAROLINA


Julian Burns, Chairman
Kershaw County Council

ATTEST:


Merri M. Seigler, Clerk to Council
Kershaw County, 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 Chair of County Council and the County Administrator and to be attested by the Clerk to County Council; the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

HAIER AMERICA COMPANY, L.L.C.

BY _____

ITS _____

EXHIBIT A

PROPERTY DESCRIPTION

The Project Property is comprised of certain real property located in Kershaw County bearing Tax Map No. 314-00-00-067.

EXHIBIT B

INVESTMENT PERIOD CERTIFICATION FORM

**MUST BE FILED NO LATER THAN DECEMBER 31 OF THE LAST YEAR OF THE
INVESTMENT PERIOD
WITH THE KERSHAW COUNTY AUDITOR**

ADDRESS:

Government Center
515 Walnut Street
Room 120
Camden, SC 29020

WITH A COPY TO:

Victor Carpenter, County Administrator
Kershaw County Government Center
515 Walnut Street
Camden, SC 29020

Kershaw County Economic Development Office
80 Campus Drive
P.O. Box 763
Camden, SC 29021

Reference is made to the Fee-In-Lieu of Ad Valorem Taxes Agreement, dated as of September 8, 2015 ("Agreement"), by and between Kershaw County, South Carolina ("County") and Haier America Company, L.L.C. (the "Company"). Each capitalized term not defined in this Investment Period Certification Form ("Certification") has the meaning contained in the Agreement.

According to the Agreement, the undersigned authorized agent of the Company certifies:

1. The Company is entitled to claim certain annual Special Source Revenue Credits against each annual Fee Payment during the Credit Period, with respect to investment made in the Project during the Credit Period.

2. The Investment Achievement Percentage is calculated as follows:

Investment Achievement Percentage = New Investment (Without Regard to Depreciation)
Invested by the Company as of the end of the Investment Period / Minimum Investment
Requirement

The Company certifies that, it has achieved \$_____ in new investment
(without regard to depreciation) as reported in its most recent property tax return.

The Investment Achievement Percentage is therefore equal to ____ %.

3. The Jobs Achievement Percentage is calculated as follows:

Jobs Achievement Percentage = New, Full-Time Jobs Created in the County by the Company as of the end of the Investment Period (not including the Baseline Employment) / Minimum Jobs Requirement

The Company certifies that it has achieved ____ Jobs, which represents the greater of (i) the annualized average number of Jobs, which shall be determined by calculating the average number of Jobs as provided on a payroll date each month of the Company's fiscal year (the monthly payroll dates to be chosen at the Company's discretion) ("Average Annualized Jobs") or (ii) the number of Jobs reported by the Company as of the last date of the Company's fiscal year.

The Jobs Achievement Percentage is therefore equal to ____ %.

4. The Overall Achievement Percentage is calculated as follows:

Overall Achievement Percentage = (Investment Achievement Percentage + Jobs Achievement Percentage) / 2

The Overall Achievement Percentage is therefore equal to _____ %.

IN WITNESS WHEREOF, I have executed this Certification as of _____, 20____.

[Company]

By: _____

Name: _____

Title: _____

EXHIBIT C

MAINTENANCE PERIOD CERTIFICATION FORM

**MUST BE FILED NO LATER THAN DECEMBER 31 OF EACH YEAR OF THE CREDIT PERIOD
FOLLOWING THE LAST YEAR OF THE INVESTMENT PERIOD
WITH THE KERSHAW COUNTY AUDITOR**

ADDRESS:

Government Center
515 Walnut Street
Room 120
Camden, SC 29020

WITH A COPY TO:

Victor Carpenter, County Administrator
Kershaw County Government Center
515 Walnut Street
Camden, SC 29020

Kershaw County Economic Development Office
80 Campus Drive
P.O. Box 763
Camden, SC 29021

Reference is made to the Fee-In-Lieu of Ad Valorem Taxes Agreement, dated as of September 8, 2015 ("Agreement"), by and between Kershaw County, South Carolina ("County") and Haier America Company, L.L.C. (the "Company"). Each capitalized term not defined in this Maintenance Period Certification Form ("Certification") has the meaning contained in the Agreement.

According to the Agreement, the undersigned authorized agent of the Company certifies:

1. The Company is entitled to claim certain annual Special Source Revenue Credits against each annual Fee Payment during the Credit Period, with respect to investment made in the Project during the Credit Period.

2. The Investment Maintenance Percentage is calculated as follows:

Investment Maintenance Percentage = New Investment (Without Regard to Depreciation)
Invested by the Company as of the end of the applicable year of the Maintenance Period / Minimum
Investment Requirement

The Company certifies that, it has achieved \$_____ in new capitalized investment (without regard to depreciation) as reported in its most recent property tax return.

The Investment Maintenance Percentage is therefore equal to ____ %.

3. The Jobs Maintenance Percentage is calculated as follows:

Jobs Maintenance Percentage = $\frac{\text{New, Full-Time Jobs Created in the County by the Company as of the end of the applicable year of the Maintenance Period (not including the Baseline Employment)}}{\text{Minimum Jobs Requirement}}$

The Company certifies that it has achieved ____ Jobs, which represents the greater of (i) the annualized average number of Jobs, which shall be determined by calculating the average number of Jobs as provided on a payroll date each month of the Company's fiscal year (the monthly payroll dates to be chosen at the Company's discretion) ("Average Annualized Jobs") or (ii) the number of Jobs reported by the Company as of the last date of the Company's fiscal year.

The Jobs Maintenance Percentage is therefore equal to ____ %.

4. The Overall Maintenance Percentage is calculated as follows:

Overall Maintenance Percentage = $\frac{(\text{Investment Maintenance Percentage} + \text{Jobs Maintenance Percentage})}{2}$

The Overall Maintenance Percentage is therefore equal to ____ %.

IN WITNESS WHEREOF, I have executed this Certification as of _____, 20____.

[Company]

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the Company 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.

By: _____
Name: _____
Its: _____
Date: _____
Address: _____

JOINDER AGREEMENT

1. Joinder to Fee Agreement.

_____ ; (b) acknowledges and agrees that (i) in accordance 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 in accordance with the Act (as defined in the Fee Agreement); (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.

3. Governing Law.

4. Notice.

[]

Name of Entity

Address:

IN WITNESS WHEREOF, the Company 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.

By: _____
Name: _____
Its: _____
Date: _____
Address: _____
