

BRUCE HENRY PROPERTIES, LLC,
d/b/a Bonadent

AND

SENECA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

SECOND AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT

Dated as October 14, 2020

Affected Tax Jurisdictions:
Seneca County
Town of Seneca Falls
Waterloo Central School District
Tax Map No(s): 33-1-70

Regarding the acquisition of land, and the renovation, expansion, upgrading and equipping of certain improvements thereon, at 1855 Routes 5&20, Seneca Falls, New York

Amending that certain Payment In Lieu Of Tax Agreement dated as of October 1, 2010, as amended by that certain First Amendment to Payment In Lieu Of Tax Agreement dated as of March 1, 2011

SECOND AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT

THIS SECOND AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT (this "Amendment"), dated as of the 14 day of October, 2020 by and between **SENECA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at 1 DiPronio Drive, Waterloo, New York 13165 (the "Agency") and **BRUCE HENRY PROPERTIES, LLC, d/b/a Bonadent**, a New York limited liability company having offices at 2495 Bonadent Dr Seneca Falls, New York 13148 and 1900 Danaren Drive-PO Box 508 Seneca Falls, New York 13184 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 63 of the Laws of 1972 of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, Bonadent and the Agency are parties to a certain Lease Agreement dated as of October 1, 2010, as amended by Amended and Restated Lease Agreement dated December 1, 2011 (together, the "Existing Lease"), and a certain Leaseback Agreement dated as of October 1, 2010, as amended and restated by Amended and Restated Leaseback Agreement dated December 1, 2011 together, (the "Existing Leaseback"), and certain Payment In Lieu of Tax Agreement dated as of October 1, 2010, as amended by First Amendment to Payment In Lieu Of Tax Agreement dated as of March 1, 2011 (the "PILOT"), pertaining to a certain facility located at 1855 NYS Routes 5 & 20, Seneca Falls, New York (the "Existing Facility"); and

WHEREAS, the Company and Danaren Dental Laboratories LLC have submitted an application, as revised (as so revised, the "Application") to the Agency requesting the Agency's assistance with respect to a certain a Project (the "Project") consisting of (i) the acquisition by the Agency of a leasehold interest in a certain 15,000 square-foot parcel of property situated adjacent to the Existing Facility, and the buildings and improvements thereon (collectively, the "Property"), (ii) the construction on the Property of a 13,650 square foot manufacturing facility and related improvements (collectively, the "Improvements"), and (iii) the acquisition and installation by the Company in the Improvements of certain items of equipment and other tangible personal property (the "Equipment" and, collectively with the Property, and the Improvements, the "Additional Facility"); and

WHEREAS, in order to induce the Company to acquire, construct and equip the Additional Facility, the Agency is willing to take title to or a leasehold interest in the Additional Facility pursuant to that certain Amended and Restated Lease Agreement dated as of the date hereof, by and between the Company, as lessor, and the Agency, as lessee (the "Lease"), and thereafter the Agency, as sub-lessor, will lease its interest in the Additional Facility back to the

Company, as sub-lessee pursuant to that certain Amended and Restated Leaseback Agreement dated as of the date hereof (the "Leaseback"; the Lease and the Leaseback are collectively referred to herein as the "Lease Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than the special district charges and other charges described in Section 2 of the PILOT; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this Amendment to provide for the continued payment in lieu of taxes by the Company to the Agency for the benefit of the Affected Tax Jurisdictions (as defined in the PILOT) pursuant to the terms of the PILOT, as the PILOT pertains to the Existing Facility, and further to provide for the payment in lieu of taxes by the Company to the Agency for the benefit of the Affected Tax Jurisdictions with respect to the Additional Facility; and

WHEREAS, in connection with this Amendment and the Lease Amendment and Leaseback Amendment the Company and the Agency have entered into a certain Agent Agreement (the "Agent Agreement"), Benefit Recapture Agreement (the "Benefit Recapture Agreement"), and certain other agreements (all such documents and agreements, together with the Lease Agreement, being herein referred to as the "Transaction Documents") providing for certain terms and conditions with respect to the Agency's involvement in the Additional Facility; and

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Capitalized terms not otherwise defined in this Amendment shall have the meaning provided for in the PILOT. To the extent any capitalized terms defined in this Amendment are also used in the PILOT, the definitions provided for in this Amendment shall control and the PILOT shall be deemed amended accordingly.

2. Section 1.1(of the PILOT is hereby amended such that all references in said Section 1.1(A) to the Facility shall be deemed to refer to the Existing Facility. All references to the Facility in Sections 1.2-1.5 and 2 through 8 of the PILOT shall be deemed to refer to the Existing Facility and the Additional Facility, collectively.

3. Section 1.1B of the PILOT is hereby deleted in its entirety and replaced with the following text:

B. Subject to the completion and filing by the Agency or its designee at the direction of the Agency on or before the taxable status date (**March 1, 2021**) (the "Additional Facility Taxable Status Date") of the Exemption Application with respect to the Additional Facility under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the

Exemption Application by the appropriate assessors or Board of Assessment Review, the Additional Facility shall be exempt from Real Estate Taxes for the periods set forth in Section 1.5. The Company shall provide the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Lease Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Additional Facility as they become due, specifically including but not limited to Real Estate Taxes for years prior to and after the tax years covered by this Agreement. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Additional Facility is not impaired and the Additional Facility continues to qualify as a "project" under the Act; (ii) neither the Additional Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Additional Facility Taxable Status Date.

4. A new Section 1.1C is hereby added to the PILOT, which shall read in its entirety as follows:

C. The parties agree and acknowledge that payments made under this Agreement are for purposes of obtaining revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are exempt from the payment of real property taxes pursuant to Section 412-a of the Real Property Tax Law and Section 874 of the General Municipal Law.

The Company shall annually pay to the Agency, as an in lieu of tax payment, on or before February 1 of each calendar year (the "Payment Date"), commencing on February 1, 2012 the amounts set forth on Schedule A attached hereto (the "Total PILOT Payment"). The Agency confirms that it has received notice of commencement of the Project from the Company as required under Section 1.1(B) of the Original PILOT.

The Total PILOT Payment shall be mailed to the Agency at 1 DiPronio Drive, Waterloo, New York 13165 or as otherwise directed by the Agency. The Company hereby agrees to make the Total PILOT Payment without further notice or invoice from the Agency or the Affected Tax Jurisdictions. All checks

shall be made payable as directed by the Agency from time to time. The Company hereby waives any and all rights it may have to any refund of prior tax payments for the periods prior to the periods described in Section 1.5. The parties acknowledge that the Company shall have the right to institute a grievance with respect to the assessment of the Facility pursuant to Article Seven of the Real Property Tax Law and Section 4 herein. The Company hereby agrees for the benefit of the Affected Tax Jurisdictions to not seek a refund of any taxes or charges paid or to be paid for periods prior to the periods described in Section 1.5.

5. Section 1.5 of the PILOT is hereby deleted in its entirety and replaced with the following text:

1.5 Period of Benefits. The tax benefits provided for herein with respect to the Existing Facility shall be deemed to include (i) the 2011-2012 school tax year through the 2030-2031 school tax year, and (ii) the 2012 town and county tax year through the 2030 town and county tax year. The tax benefits provided for herein with respect to the Additional Facility shall be deemed to include (i) the 2022 town and county tax year through the 2030 town and county tax year and (ii) the 2021-2022 School tax year through the 2029-2030 School tax year. **This Agreement shall expire on December 31, 2031**, provided, however, that the Company shall pay the 2031-32 school taxes and 2032 town and county taxes on the dates and in the amounts as if the Agency had no interest in the Facility on the tax status date with respect to said tax years.

In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL") for the Facility and/or any Future Addition; provided, the foregoing shall not be interpreted to limit the Company and Agency from subsequently agreeing (each in its sole discretion) to additional benefits based upon commitments to make additional improvements or changes in use. It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

6. Section 8.2 of the PILOT is hereby amended as follows (intending to replace the "with a Copy to" addresses for the parties currently specified in the PILOT):

(a) Copies of any and all notices delivered to the Agency shall be delivered to: Robert L. Halpin, Esq., 4588 Route 224, Montour Falls, New York 14865.

(b) Copies of any and all notices delivered to the Company shall be delivered to: Harris Beach PLLC, Attn., Charles Russell, Esq., 99 Garnsey Road, Pittsford, New York 14534.

7. A new Section 9 is hereby added to the PILOT, as follows:

9. In the event this Agreement terminates (regardless of whether the Facility is timely transferred back to the Company), the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of termination.

8. Schedule A attached to the PILOT is hereby amended and restated by, and replaced with, Schedule A attached to this Amendment and made a part hereof.

9. The PILOT is subject to the terms, covenants and conditions of the Benefit Recapture Agreement, which is incorporated herein and made a part of the PILOT by reference

10. This Amendment shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Seneca County, New York.

11. Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Existing Facility or Additional Facility and paid to the Agency by the Company. Neither members of the Agency nor any person executing this Agreement on its behalf shall be liable personally under this Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Amendment.

12. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument and shall be binding upon each of the undersigned as fully and completely as if all had signed the same instrument.

SIGNATURE PAGE FOLLOWS

[Signature Page to Second Amendment to Payment in Lieu of Tax Agreement]

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Payment In Lieu of Tax Agreement as of the date first set forth above.

SENECA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: *Sarah R. Davis*
Name: Sarah Davis
Title: Executive Director

BRUCE HENRY PROPERTIES, LLC,
d/b/a Bonadent

By: *Bona-Dent, Inc.*
By: *Danielle B. Wirth*
Name: Danielle B. Wirth
Title: Secretary

SCHEDULE A

PAYMENT IN LIEU OF TAX AGREEMENT DATED AS OF OCTOBER 1, 2010, AS AMENDED BY FIRST AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT DATED MARCH 1, 2011 AND SECOND AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT DATED October 14, 2020
BY AND BETWEEN SENECA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AND BRUCE HENRY PROPERTIES, LLC D/BA BONADENT

Pursuant to the terms of Section 1.1 of this Agreement, "Total PILOT Payment" shall mean, for each of the periods below, an amount per annum as determined pursuant to the table below. For purposes of the table below:

“Additional Facility Improvements” means the Improvements as defined in the Amended and Restated Leaseback Agreement between the Company and the Agency dated October 14, 2020.

“Added Value” means the then-current assessed value of the Existing Facility Improvements and the Additional Facility Improvements (after application of any applicable equalization rate)

“Base Valuation” means \$1,200,000.

“Existing Facility Improvements” means the Improvements as defined in the Amended and Restated Leaseback Agreement between the Company and the Agency dated December 1, 2011.

“Tax Rate” means the applicable combined county, town and school district tax rate (expressed as a ratio of the amount of ad valorem taxes levied per \$1,000 of assessed value) for each respective tax year in the table below.

PILOT Year	Town and County Tax Year	School Tax Year	Total PILOT Payment
1-16	2012-2027	2011-12 – 2026-27	Tax Rate x Base Valuation
17	2028	2027-28	(Tax Rate x Base Valuation) + (Tax Rate x Added Value x .20)
18	2029	2028-29	(Tax Rate x Base Valuation) + (Tax Rate x Added Value x .40)
19	2030	2029-30	(Tax Rate x Base Valuation) + (Tax Rate x Added Value x .60)
20	2031	2030-31	(Tax Rate x Base Valuation) + (Tax Rate x Added Value x .80)



**NYS DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES**

RP-412-a (1/95)

**INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)**

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name Seneca County IDA
 Street 1 DiPronion Drive
 City Waterloo NY 13165
 Telephone no. Day (315) 539-1725
 Evening () _____
 Contact Sarah Davis
 Title Executive Director

2. OCCUPANT (IF OTHER THAN IDA)

(If more than one occupant attach separate listing)

Name Bruce Henry Properties,LLC d/ba Bonadent
 Street 2495 Bonadent Drive
 City Seneca Falls, NY 13148
 Telephone no. Day () 315-539-4226
 Evening () _____
 Contact Bruce Bonafiglia
 Title President & CEO

3. DESCRIPTION OF PARCEL

a. Assessment roll description (tax map no./roll year) 33-1-70
 b. Street address 1855 Route 5 & 20
 c. City, Town or Village Seneca Falls

d. School District Waterloo
 e. County Seneca
 f. Current assessment 4,200,000.00
 g. Deed to IDA (date recorded; liber and page)

4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

a. Brief description (include property use) Acquire 15,000 sq.foot parcel adjacent to existing facility and construct a 13.650 sq. foot manufacturing facility.
 b. Type of construction _____
 c. Square footage 13,650
 d. Total cost 3,750,000.00
 e. Date construction commenced TBD
 f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA) December 31, 2031

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION

(Attach copy of the agreement or extract of the terms relating to the project).

a. Formula for payment See Attached

b. Projected expiration date of agreement December 31, 2031

c. Municipal corporations to which payments will be made

	Yes	No
County <u>Seneca</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City <u>Seneca Falls</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Village _____	<input type="checkbox"/>	<input type="checkbox"/>
School District <u>Waterloo CSD</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Person or entity responsible for payment

Name Bruce Henry Properties, LLC
 Title d/b/a Bonadent
 Address 2495 Bonadent Drive
Seneca Falls, NY 13148

e. Is the IDA the owner of the property? Yes No (check one)

If "No" identify owner and explain IDA rights or interest in an attached statement.

Telephone 315-539-4226

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) Yes No

If yes, list the statutory exemption reference and assessment roll year on which granted: exemption _____ assessment roll year _____

7. A copy of this application, including all attachments, has been mailed or delivered on _____ (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, Sarah Davis, Executive Director of Seneca County Industrial Development Agency hereby certify that the information Organization

on this application and accompanying papers constitutes a true statement of facts.

10/8/20
Date

Sarah R Davis
Signature

FOR USE BY ASSESSOR

1. Date application filed _____
2. Applicable taxable status date _____
- 3a. Agreement (or extract) date _____
- 3b. Projected exemption expiration (year) _____
4. Assessed valuation of parcel in first year of exemption \$ _____
5. Special assessments and special as valorem levies for which the parcel is liable:

Date

Assessor's signature