

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

and

SHERMAN SPECIALTY INC.

AMENDMENT NO. 1 TO SUBLEASE AGREEMENT
(UNIFORM PROJECT AGREEMENT)

Dated as of February 28, 2024

ADDRESS:	141 Eileen Way
	Syosset
TOWN:	Oyster Bay
COUNTY:	Nassau
STATE:	New York

AMENDMENT NO. 1 TO SUBLEASE AGREEMENT

THIS AMENDMENT NO. 1 TO SUBLEASE AGREEMENT (this “Amendment”) dated as of February 28, 2024 (the “Effective Date”), by and between the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at One West Street, 4th floor, Mineola, NY 11501 (the “Agency”), and SHERMAN SPECIALTY INC., a corporation organized and existing under the laws of the State of New York, having an office at 141 Eileen Way, Syosset, NY 11791 (the “Company”).

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Company presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 1.00 acre parcel of land located at 141 Eileen Way, Syosset, Town of Oyster Bay, Nassau County, New York (Section: 15; Block: 157; Lot: 34) (the “Land”), (2) the renovation of the existing approximately 10,000 square foot building (the “Building”) on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment”), all of the foregoing for use by the Company as its corporate headquarters (collectively, the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Company or such other entity as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on January 28, 2016 (the “Authorizing Resolution”), the Agency determined to proceed with the Project, to grant the

Financial Assistance and to enter into the “straight lease transaction” (as such quoted term is defined in the Act) contemplated by the Lease (as hereinafter defined) and the other Transaction Documents (as defined in the Lease); and

WHEREAS, the Agency appointed the Company as agent of the Agency to undertake the acquisition, renovation, installation and equipping of the Project Facility and subleased the Project Facility to the Company, and the Company as agent of the Agency has undertaken the acquisition, renovation, installation and equipping of the Project Facility and subleased the Project Facility from the Agency, all pursuant to the terms and conditions set forth in that certain Sublease Agreement (Uniform Project Agreement) dated as of June 1, 2017 between the Agency and the Company (the “Lease”) and in the other Transaction Documents (as defined in the Lease); and

WHEREAS, by letter dated October 20, 2023 (the “Default Letter”), the Agency notified the Company that the Company is not in compliance with its obligations under the Lease and the other Transaction Documents and that a default has occurred as a result of the failure to maintain the Minimum Employment Requirement (as defined in the Lease) required as of December 31, 2022, as evidenced by the jobs report dated February 21, 2023 submitted by the Company to the Agency; and

WHEREAS, pursuant to the Default Letter, the Agency also notified the Company that recapture events have occurred as a result of the failure to maintain the Minimum Employment Requirement at all times during the term of the Lease, which constitute Recapture Events pursuant to Section 4.8(c)(i) and (vi) of the Lease; and

WHEREAS, based on discussions between the Company and the CEO/Executive Director of the Agency, the Company proposed that the Agency waive the default and recapture events set forth in the Default Letter (the “2022 Default”) as well as default and recapture events for FY2023 based on the same job shortage (the “2023 Default”) and enter into an amendment of the Lease to adjust the Minimum Employment Requirement (the “Amendment Transaction”); and

WHEREAS, no additional Financial Assistance is being requested by the Company with respect to the Amendment Transaction and, therefore, no public hearing of the Agency is required pursuant to Section 859-a of the Act; and

WHEREAS, the members of the Agency approved the Amendment Transaction pursuant to a resolution adopted by the members of the Agency on January 31, 2024 and authorized the Agency to enter into, *inter alia*, this Amendment;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Company and the Agency mutually covenant, warrant and agree as follows:

SECTION 1. DEFINITIONS; CONSENT.

SECTION 1.1 Interpretation. For purposes of this Amendment, unless otherwise defined herein, all capitalized terms used herein including, but not limited to, those capitalized

terms used and/or defined in the recitals hereto, shall have the respective meanings assigned to such terms in the Lease.

SECTION 1.2 Consent. The Agency hereby consents to the Amendment Transaction and waives the 2022 Default and the 2023 Default, subject to the terms of this Amendment.

SECTION 2. AMENDMENTS.

SECTION 2.1 Effective as of the Effective Date, subsection (N) of Section 2.2 of the Lease is hereby deleted and replaced with the following:

“(N) The Company shall maintain not less than thirty-two (32) full-time equivalent, private sector jobs throughout the term of this Lease, all of which jobs shall at all times be located at the Project Facility (collectively, the “Minimum Employment Requirement”).”

SECTION 3. CONDITIONS.

SECTION 3.1 Conditions Precedent. This Amendment shall only become effective upon the fulfillment, prior to or contemporaneously with the delivery hereof, of the following conditions precedent:

(A) the execution and delivery by the Company and the Agency of an original or counterpart originals of this Amendment;

(B) the Company shall deliver such other consents, waivers, documents, instruments and agreements as the Agency may reasonably require in connection with the transactions contemplated by this Amendment;

(C) all other documents and legal matters in connection with this Amendment and the transactions contemplated by the Lease as amended by this Amendment, shall be satisfactory in form and substance to the Agency; and

(D) the Company shall pay the Agency’s consent and amendment fee in the amount of \$750 and shall pay all reasonable fees and expenses (including reasonable attorneys’ fees and expenses) incurred by the Agency in connection with the preparation, execution and delivery of this Amendment and the closing of the transactions contemplated hereby.

SECTION 4. MISCELLANEOUS.

SECTION 4.1 Representations and Warranties.

(A) All terms, conditions, covenants, representations and warranties of the Company contained in the Lease and the other Transaction Documents, except as expressly modified hereby, are ratified, confirmed and reaffirmed by the Company as of the date hereof, remain in full force and effect as of the date hereof, and are subject to the terms of this Amendment.

(B) The Company represents and warrants to the Agency that it has the necessary power and has taken all necessary action to make this Amendment the valid and enforceable obligation it purports to be, and that this Amendment constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(C) The Company represents and warrants to the Agency that no Event of Default specified in the Lease or in any of the other Transaction Documents has occurred and is continuing and no event has occurred and is continuing which with notice or lapse of time or both would become an Event of Default specified in the Lease or in any of the other Transaction Documents.

SECTION 4.2 Additional Matters. All other documents and legal matters in connection with this Amendment and the transactions contemplated by the Lease as amended by this Amendment shall be satisfactory in form and substance to the Agency.

SECTION 4.3 Survival of Representations and Warranties. All representations and warranties made in this Amendment or any other documents furnished in connection with this Amendment shall survive the execution and delivery of this Amendment and no investigation by the Agency or any closing shall affect the representations and warranties or the right of the Agency to rely upon them.

SECTION 4.4 Reference to Lease. The Lease, the other Transaction Documents, and any and all other agreements, documents, or instruments heretofore, now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Lease, as amended hereby, are hereby amended so that any reference to the "Lease" or the "Lease Agreement" in the Lease, the other Transaction Documents such other agreements, documents or instruments executed in connection with the Lease shall mean a reference to the Lease, as amended hereby.

SECTION 4.5 Governing Law. This Amendment, the transactions described herein and the obligations of the parties hereto shall be construed under, and governed by, the laws of the State of New York, as in effect from time to time, without regard to principles of conflicts of laws.

SECTION 4.6 Successors and Assigns. The Company and the Agency, as such terms are used herein, shall include the legal representatives, successors and assigns of those parties.

SECTION 4.7 Counterparts; Electronic Transmission. This Amendment may be executed in any number of counterparts and by the Company and the Agency on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Amendment. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or email shall be effective as delivery of a manually executed counterpart of this Amendment. This Amendment may be modified only by a written agreement signed by Authorized Representatives of the Company and

the Agency. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or email shall be effective as delivery of a manually executed counterpart of this Amendment. This Amendment may be modified only by a written agreement signed by Authorized Representatives of the Company and the Agency.

SECTION 4.8 Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

SECTION 4.9 Conflicting Provisions. In the event of any conflict in the terms and provisions of this Amendment and the terms and provisions of the Lease, the terms and provisions of this Amendment shall govern.

SECTION 4.10 No Waiver. The execution and delivery of this Amendment by the Agency does not and shall not be construed to mean that there are no defaults or events of default under the Lease or any other Transaction Document or that any such defaults or events of default have been, are hereby, or shall be waived by the Agency.


[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

SECTION 4.11 Entire Agreement. This Amendment constitutes the entire agreement and, understanding between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior negotiations, understandings, and agreements between such parties with respect to such transaction.

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

Company:

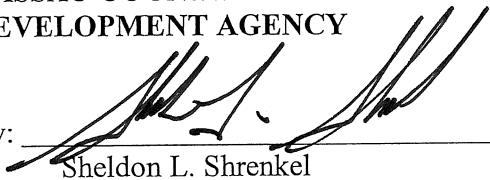
SHERMAN SPECIALTY INC.

By: 

Adam J. Krosser
President

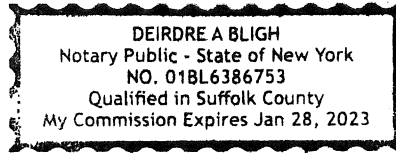
Agency:

**NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

Sheldon L. Shrenkel
Chief Executive Officer / Executive Director

[Signature Page to Amendment No. 1 to Sublease Agreement]



STATE OF NEW YORK)
)SS.:
COUNTY OF)

On the 20th day of February, 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared Adam J. Krosser, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Deirdre A Bligh
Notary Public

STATE OF NEW YORK)
)SS.:
COUNTY OF NASSAU)

On the 27th day of February, 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared Sheldon L. Shrenkel, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]

Notary Public

Paul V O'Brien
Notary Public State of New York
No. 02OB6235944
Qualified in Nassau County
Commission Expires February 14, 2025 2027

[Acknowledgment Page to Amendment No. 1 to Sublease Agreement]