

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2003

Or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number 000-33043

Omnicell, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation or organization)

94-3166458

(I.R.S. Employer
Identification No.)

**1101 East Meadow Drive
Palo Alto, California 94303
(650) 251-6100**

(Address, including zip code, of registrant's principal executive
offices and registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes No
As of July 31, 2003 there were 22,900,735 shares of the Registrant's Common Stock outstanding.

OMNICELL, INC.

FORM 10-Q

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PART I—FINANCIAL INFORMATION**ITEM I. Financial Statements**

OMNICELL, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands)

	June 30, 2003 (Unaudited)	December 31, 2002 (1)
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 26,031	\$ 21,400
Short-term investments	1,981	85
Accounts receivable, net	11,289	10,644
Inventories	8,673	12,741
Prepaid expenses and other current assets	3,447	3,575
Total current assets	51,421	48,445
Property and equipment, net	4,203	5,026
Other assets	9,392	12,071
Total assets	\$ 65,016	\$ 65,542
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 3,427	\$ 5,975
Accrued liabilities	12,543	11,695
Deferred service revenue	12,563	11,598
Deferred gross profit	14,667	18,008
Current portion of note payable	908	1,197
Total current liabilities	44,108	48,473
Note payable	—	305
Other long-term liabilities	458	458
Stockholders' equity	20,450	16,306
Total liabilities and stockholders' equity	\$ 65,016	\$ 65,542

(1) Derived from the December 31, 2002 audited consolidated balance sheet.

See accompanying notes.

OMNICELL, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share amounts)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2003	2002	2003	2002
Revenues:				
Product revenues	\$ 20,447	\$ 21,212	\$ 38,004	\$ 42,242
Service and other revenues	4,694	3,730	9,212	7,119
Total revenues	25,141	24,942	47,216	49,361
Cost of revenues:				
Cost of product revenues	8,819	8,013	16,525	15,998
Cost of service and other revenues	1,678	2,029	3,425	3,411
Total cost of revenues	10,497	10,042	19,950	19,409
Gross profit	14,644	14,900	27,266	29,952
Operating expenses:				
Research and development	2,106	2,201	4,475	4,879
Selling, general and administrative	10,551	10,983	20,422	21,987
Restructuring and severance charges	630	—	630	—
Total operating expenses	13,287	13,184	25,527	26,866

Income from operations	1,357	1,716	1,739	3,086
Interest and other income	136	174	260	851
Interest and other expense	(32)	(87)	(77)	(544)
Income before provision (benefit) for income taxes	1,461	1,803	1,922	3,393
Provision (benefit) for income taxes	170	25	186	(35)
Net income	\$ 1,291	\$ 1,778	\$ 1,736	\$ 3,428
Net income per share—basic	\$ 0.06	\$ 0.08	\$ 0.08	\$ 0.16
Net income per share—diluted	\$ 0.05	\$ 0.08	\$ 0.07	\$ 0.15
Weighted average shares outstanding—basic	22,382	21,705	22,243	21,581
Weighted average shares outstanding—diluted	24,646	23,203	23,601	23,198

See accompanying notes.

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OMNICELL, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Six Months Ended June 30,	
	2003	2002
Operating activities:		
Net income	\$ 1,736	\$ 3,428
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation and amortization	1,535	1,334
Amortization of deferred stock compensation	219	370
Changes in operating assets and liabilities:		
Accounts receivable, net	(645)	(351)
Inventories	4,068	(438)
Prepaid expenses and other current assets	128	458
Other assets	2,615	197
Accounts payable	(2,548)	106
Accrued liabilities	847	(3,555)
Deferred service revenue	965	1,835
Deferred gross profit	(3,341)	(5,372)
Note payable	(594)	—
Other long-term liabilities	—	(217)
Net cash provided by (used in) operating activities	4,985	(2,205)
Investing activities:		
Purchases of short-term investments	(1,896)	(2,053)
Maturities of short-term investments	—	1,831
Purchases of property and equipment	(648)	(1,097)
Net cash used in investing activities	(2,544)	(1,319)
Financing activities:		
Proceeds from issuance of common stock	1,521	758
Proceeds from stockholders' notes receivable	669	—
Net cash provided by financing activities	2,190	758
Net increase (decrease) in cash and cash equivalents	4,631	(2,766)
Cash and cash equivalents at beginning of period	21,400	16,912
Cash and cash equivalents at end of period	\$ 26,031	\$ 14,146
Supplemental cash flow information:		
Cash paid for interest	\$ 18	\$ —
Cash paid for taxes	\$ 361	\$ 154

See accompanying notes.

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OMNICELL, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1. Organization and Summary of Significant Accounting Policies

Description of the Company

Omniceil, Inc. (“Omniceil” or the “Company”) was incorporated in the State of California in September 1992 under the name OmniCell Technologies, Inc. In August 2001, the Company reincorporated in Delaware and changed its name to Omnicell, Inc.

Omniceil is a leading provider of patient safety solutions for healthcare. Addressing the medication-use process and medical-surgical supply chain, Omnicell’s broad range of solutions are used throughout the healthcare facility—in the pharmacy, nursing units, operating room, cardiac cath lab, and all the way to the patient’s bedside. Improving patient care by enhancing operational efficiency, Omnicell’s solutions include systems for physician order management, automated pharmacy retrieval, medication and supply dispensing, nursing workflow automation at the bedside, and Web-based procurement. These solutions enable healthcare facilities to reduce medication errors, operate more efficiently, and decrease costs—ultimately contributing to improved clinical and financial outcomes.

Basis of Presentation

The accompanying unaudited condensed consolidated financial information has been prepared by management, in accordance with accounting principles generally accepted in the United States for interim financial information and pursuant to instructions to Form 10-Q and Article 10 of Regulation S-X. Certain information and footnote disclosures normally included in consolidated financial statements prepared in accordance with accounting principles generally accepted in the United States have been condensed or omitted pursuant to the Securities and Exchange Commission’s rules and regulations. The consolidated financial statements include the Company and its wholly owned subsidiaries, APRS, Inc. and Omnicell HealthCare Canada, Inc. All significant intercompany accounts and transactions are eliminated in consolidation. In the opinion of management, all adjustments (which would include only normal recurring adjustments) necessary to present fairly the financial position as of June 30, 2003 and the results of operations and cash flows for all periods presented have been made. The condensed consolidated balance sheet as of December 31, 2002 has been derived from the audited financial statements as of that date.

The condensed consolidated financial statements should be read in conjunction with the Company’s December 31, 2002 audited consolidated financial statements included in the Company’s Annual Report on Form 10-K as filed with the Securities and Exchange Commission. The results of operations for the three and six months ended June 30, 2003 are not necessarily indicative of the results to be expected for any subsequent quarter or for the entire fiscal year ending December 31, 2003.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the period reported. Actual results could differ materially from those estimates. Estimates and assumptions are reviewed periodically and the effects of revisions are reflected in the consolidated financial statements in the period they are determined.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of investments in a money market account, trade receivables, and sales-type lease receivables. The Company’s products are primarily sold to customers and to distributors. No one customer accounted for more than 10% of revenues in the three and six months ended June 30, 2003 and 2002.

The majority of revenue is generated from customers in North America. Revenues generated from customers in North America for the three months ended June 30, 2003 and 2002 totaled 98% and 99% of total revenues, respectively. Revenues generated from customers in North America for the six months ended June 30, 2003 and 2002 totaled 97% of total revenues in each period.

One leasing company accounted for 5% of accounts receivable at June 30, 2003. The same leasing company accounted for 12% of accounts receivable at December 31, 2002. Another customer accounted for 13% of accounts receivable at June 30, 2003. The same customer accounted for 3% of accounts receivable at December 31, 2002.

Goodwill and Purchased Intangible Assets

In accordance with Statement of Financial Accounting Standard (“SFAS”) No. 142, “Goodwill and Other Intangible Assets,” the Company has adopted a policy for measuring goodwill for impairment when indicators of impairment exist, and at least on an annual basis. No impairment of goodwill was recognized for the three and six months ended June 30, 2003. The Company had goodwill of \$0.4 million as of June 30, 2003.

Purchased intangible assets include acquired software and service contracts. Purchased intangible assets are amortized on a straight-line basis over their useful lives of five or six years. Additionally, purchased intangible assets are tested for impairment whenever events or changes in circumstances indicate the carrying amount of the assets may not be recoverable from future undiscounted cash flows. No impairment of purchased intangible assets was recognized for the three and six months ended June 30, 2003 and 2002.

Revenue Recognition

Revenues are derived primarily from sales of medication and supply dispensing systems and subsequent service agreements. The Company markets these systems for sale or for lease. Medication and supply dispensing system sales, which are accounted for in accordance with American Institute of Certified Public Accountant’s Statement of Position 97-2, “Software Revenue Recognition,” are recognized when persuasive evidence of an arrangement exists; delivery and installation has occurred or services have been rendered; Omnicell’s price to the customer is fixed and determinable; and collectibility is reasonably assured. Revenues from leasing arrangements are recognized in accordance with SFAS No. 13, “Accounting for Leases,” upon completion of the Company’s installation obligation and commencement of the noncancelable lease term. Deferred gross profit represents the profit to be earned by the Company, exclusive of installation costs, on medication and supply dispensing systems shipped to the customer but not yet installed at the customer site.

Post-installation technical support, such as phone support, on-site service, parts and access to software upgrades, is provided by the Company under separate service agreements. When support services are sold under multiple element arrangements, the Company allocates revenue to support services based upon its relative fair value which is determined by the average discount pricing of the arrangement applied separately to each product and support service component.

Revenues on service agreements are recognized ratably over the related service contract period. Deferred service revenue represents amounts received under service agreements for which the services have not yet been performed.

Revenues from the Company's Internet-based procurement application are recognized ratably over the subscription period. Internet-based procurement application revenues were not significant (less than 1.5% of total revenues) for the three and six months ended June 30, 2003 and 2002, and are included in service and other revenues.

Software Development Costs

Development costs related to software implemented in the Company's medication and supply dispensing systems and incurred subsequent to the establishment of technological feasibility are capitalized and amortized over the estimated lives of the related products ranging from 15 months to 3 years. Technological feasibility is established upon completion of a working model, which is a matter of judgment using the guidelines of SFAS No. 86, "Accounting for the Costs of Computer Software to be Sold, Leased or Otherwise Marketed." All such development costs incurred prior to the completion of a working model are recognized as research and development expense. As of June 30, 2003 and December 31, 2002, the balance of capitalized software development costs was approximately \$0.8 million and \$1.5 million, respectively. These costs are reported as a component of other assets. Amortization of capitalized software development costs was approximately \$0.3 million and \$0.2 million for the three months ended June 30, 2003 and 2002, respectively. Amortization of capitalized software development costs was approximately \$0.7 million and \$0.3 million for the six months ended June 30, 2003 and 2002, respectively.

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Stock-Based Compensation

The Financial Accounting Standards Board ("FASB") issued SFAS No. 123, "Accounting for Stock-Based Compensation," which was amended by SFAS No. 148 "Accounting for Stock Based Compensation – Transition and Disclosure," and permits the use of either a fair value based method or the intrinsic value method defined in Accounting Principles Board ("APB") Opinion No. 25, "Accounting for Stock Issued to Employees," to account for stock-based compensation arrangements. Companies that elect to employ the intrinsic value method provided in APB Opinion 25 are required to disclose the pro forma net income (loss) that would have resulted from the use of the fair value based method provided under SFAS 123. As permitted by SFAS 123, Omnicell has elected to determine the value of stock-based compensation arrangements under the intrinsic value based method of APB Opinion 25. Accordingly, Omnicell only recognizes compensation expense for stock awards issued to employees when awards are granted with an exercise price below fair value at the date of grant. Any resulting compensation expense is recognized over the vesting period. The following table sets forth pro forma information as if compensation expense had been determined using the fair value method under SFAS 123. The fair value of these options was estimated using a Black-Scholes option-pricing model (in thousands, except per share amounts):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2003	2002	2003	2002
Net income as reported	\$ 1,291	\$ 1,778	\$ 1,736	\$ 3,428
Add: Total stock-based employee compensation expense included in reported net income, net of related tax effects	140	167	197	333
Deduct: Total stock-based employee compensation expense determined under fair value method for all awards, net of related tax effects	(782)	(1,227)	(1,544)	(2,092)
Net income pro forma	\$ 649	\$ 718	\$ 389	\$ 1,669
Net income per share - basic as reported	\$ 0.06	\$ 0.08	\$ 0.08	\$ 0.16
Net income per share - basic pro forma	\$ 0.02	\$ 0.03	\$ 0.01	\$ 0.07
Net income per share - diluted as reported	\$ 0.05	\$ 0.08	\$ 0.07	\$ 0.15
Net income per share - diluted pro forma	\$ 0.02	\$ 0.03	\$ 0.01	\$ 0.07

Segment Information

The Company reports segments in accordance with SFAS No. 131, "Disclosures About Segments of an Enterprise and Related Information." SFAS 131 requires the use of a management approach in identifying segments of an enterprise. The Company has two operating segments: the medication and supply dispensing systems and the e-commerce business. The Company's chief operating decision-maker reviews information pertaining to reportable segments to the operating income level. There are no significant inter-segment sales or transfers. Assets of the operating segments are not segregated and substantially all of the Company's long-lived assets are located in the United States.

For the three and six months ended June 30, 2003 and 2002, substantially all of the Company's total revenues and gross profits were generated by the medication and supply dispensing systems operating segment. The Internet-based e-commerce business operating segment generated less than one and a half percent (1.5%) of consolidated revenues in the three and six months ended June 30, 2003 and 2002. The operating loss generated by the e-commerce segment was approximately \$0.1 million and \$0.2 million in the three months ended June 30, 2003 and 2002, respectively. The operating loss generated by the e-commerce segment was approximately \$0.2 million and \$0.5 million in the six months ended June 30, 2003 and 2002, respectively.

Net Income Per Share

Basic net income per share is computed by dividing net income for the period by the weighted average number of shares outstanding during the period, less shares subject to repurchase. Diluted net income per share is computed by dividing net income for the

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period by the weighted average number of shares and, if dilutive, common stock equivalent shares outstanding during the period. Common stock equivalents include the effect of outstanding dilutive stock options and warrants, computed using the treasury stock method. For the three months ended June 30, 2003 and 2002, options to purchase 1,640,177 and 2,225,044 shares, respectively, with an exercise price greater than \$6.72 and \$6.24, the average fair market value per share for the period, respectively, were excluded from the calculation of diluted net income per share. For the six months ended June 30, 2003 and 2002, options to purchase 3,287,337 and 1,961,896 shares, respectively, with an exercise price greater than \$4.82 and \$6.79, the average fair market value per share for the period, respectively, were excluded from the calculation of diluted net income per share.

The calculation of basic and diluted net income per share is as follows (in thousands, except per share amounts):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2003	2002	2003	2002
Basic:				
Net income	\$ 1,291	\$ 1,778	\$ 1,736	\$ 3,428
Weighted average shares of common stock outstanding	22,390	21,873	22,270	21,774
Less: Weighted average shares subject to repurchase	(8)	(168)	(27)	(193)
Weighted average shares outstanding-basic	22,382	21,705	22,243	21,581
Net income per share	\$ 0.06	\$ 0.08	\$ 0.08	\$ 0.16
Diluted:				
Net income	\$ 1,291	\$ 1,778	\$ 1,736	\$ 3,428
Weighted average shares of common stock outstanding	22,390	21,873	22,270	21,774
Add: Dilutive effect of employee stock options and warrants	2,256	1,330	1,331	1,424
Weighted average shares outstanding—diluted	24,646	23,203	23,601	23,198
Net income per share	\$ 0.05	\$ 0.08	\$ 0.07	\$ 0.15

Recent Accounting Pronouncement

In January 2003, the FASB issued FASB Interpretation No. (“FIN”) 46, “Consolidation of Variable Interest Entities, an Interpretation of Accounting Research Bulletin No. 51.” FIN 46 requires certain variable interest entities to be consolidated by the primary beneficiary of the entity if the equity investors in the entity do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. FIN 46 is effective for all new variable interest entities created or acquired after January 31, 2003. For variable interest entities created or acquired prior to February 1, 2003, the provisions of FIN 46 must be applied for the first interim or annual period beginning after June 15, 2003. The adoption of FIN 46 did not have a material impact on Omnicell’s operating results or financial condition.

In November 2002, the EITF reached a consensus on Issue No. 00-21, “Revenue Arrangements with Multiple Deliverables.” EITF Issue No. 00-21 provides guidance on how to account for certain arrangements that involve the delivery or performance of multiple products, services and/or rights to use assets. The provisions of EITF Issue No. 00-21 will apply to revenue arrangements entered into in fiscal periods beginning after June 15, 2003. The adoption of EITF Issue No. 00-21 did not have any significant impact on Omnicell’s accounting for multiple element arrangements as such arrangements will generally continue to be accounted for pursuant to AICPA Statement of Position 97-2, “Software Revenue Recognition,” and related pronouncements

Note 2. Acquisitions

Medisafe

On December 6, 2002, Omnicell purchased substantially all of the intellectual property assets of Medisafe, a provider of point-of-care patient safety solutions. As part of the transaction, Omnicell acquired technology for a new bedside medication management solution called SafetyMed. This solution automates the nursing workflow process associated with medication administration and uses bar code technology to help ensure patient safety. The total purchase price was \$3.0 million, which included \$1.5 million paid at the date of purchase, \$1.0 million paid in June 2003 after completion of certain obligations by Medisafe, and \$0.5 million due over the next four years in equal annual installments of \$125,000 representing guaranteed minimum royalties. In addition, the Company incurred approximately \$20,000 of acquisition related costs. The purchase price was allocated to the fair value, at the date of the acquisition, of the assets acquired and purchased in-process research and development costs, based on an independent third-party valuation, as follows (in thousands):

Intangible assets	\$ 2,354
Contracted services	79
Purchased in-process research and development	588
Purchase price	\$ 3,021

As part of the purchase, Omnicell agreed to a royalty fee of 10% of related Medisafe product net revenues with a maximum limit of \$2.5 million over a five-year period from the date of purchase. Payments made under the royalty arrangement that exceed the guaranteed minimum royalties will be expensed as incurred. There have been no royalty payments since the acquisition.

APRS, Inc.

On August 30, 2002, Omnicell acquired 100% of the outstanding common shares of APRS, Inc., a privately held company headquartered in Houston, Texas. APRS, Inc. was formed in 1997 to support, develop, and market integrated system solutions to health system pharmacies. The financial

results of APRS, Inc. have been included in the consolidated financial statements since the date of acquisition. Pro forma results for 2002 as if APRS, Inc. was acquired on January 1, 2002 are not materially different from Omnicell's reported 2002 results. In connection with the acquisition, Omnicell paid cash of \$1.0 million, assumed certain liabilities of APRS, Inc. totaling \$0.5 million and incurred approximately \$20,000 of acquisition related costs. The purchase price was allocated to the fair value, at the date of the acquisition, of the assets acquired, liabilities assumed, and purchased in-process research and development costs, based on an independent third-party valuation obtained in the fourth quarter of 2002, as follows (in thousands):

Current assets	\$	294
Property, plant and equipment		43
Other assets		2
Intangible assets		716
Goodwill		382
Total assets acquired		1,437
Current liabilities assumed		(500)
Net assets acquired		937
Purchased in-process research and development		128
	\$	1,065

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Intangible Assets from Medisafe and APRS, Inc. Acquisitions

Intangible assets resulting from the Medisafe and APRS, Inc. acquisitions are included in other assets and consist of the following (in thousands):

	June 30, 2003	Amortization Life
Service contracts	\$ 268	5 years
Computer software	2,802	5-6 years
Total purchased intangible assets	3,070	
Accumulated amortization	(107)	
Net purchased intangible assets	\$ 2,963	

Estimated future amortization expense of the purchased intangible assets at June 30, 2003 is as follows (in thousands):

2003 (remaining 6 months)	\$ 300
2004	\$ 599
2005	\$ 599
2006	\$ 599
2007	\$ 581
2008	\$ 285
Total	\$ 2,963

Note 3. Leasing Arrangements

For the three and six months ended June 30, 2003, sales of medication and supply dispensing systems sold under net sales-type lease agreements totaled approximately \$5.3 million and \$15.1 million, respectively. For the three and six months ended June 30, 2002, sales of medication and supply dispensing systems sold under net sales-type lease agreements totaled approximately \$13.8 million and \$19.5 million, respectively. For the period ended June 30, 2003 and 2002, customer lease receivables sold to third-party leasing companies totaled approximately \$5.0 million and \$14.8 million, respectively. The Company records revenue at an amount equal to the cash to be received from the leasing company, which is equivalent to the net present value of the lease streams, utilizing the implicit interest rate under its funding agreements. The Company excludes from revenue any amount paid to the leasing company for the termination of an existing lease pursuant to a new lease. The Company has no obligation under a lease once it is sold to the leasing company. Revenue is recognized upon completion of the Company's installation obligation and commencement of the noncancelable lease term. As of June 30, 2003 and December 31, 2002, accounts receivable included \$1.6 million and \$1.4 million respectively from the finance companies for lease receivables sold.

Note 4. Inventories

Inventories consist of the following (in thousands):

	June 30, 2003	December 31, 2002
Raw materials	\$ 5,221	\$ 7,957
Work-in-process	517	896
Finished goods	2,935	3,888
Total	\$ 8,673	\$ 12,741

Note 5. Other Assets—Purchased Residuals

Although the Company had no contractual obligations to do so, in July 2002, the Company executed an agreement to purchase from Americorp Financial, Inc. ("AFI") all residual interests in Omnicell equipment covered by leasing agreements financed by AFI. The total purchase price was \$3.1 million. The purchase price was assigned to the acquired lease residuals based on the original implied lease residual value, leased equipment type, and the Company's assessment of the customers' likelihood of renewal at the end of the lease term. As leases are renewed or upgraded, the Company charges the assigned value to cost of product revenues. When leases are not renewed or

upgraded at the end of the lease contract or when the Company believes a renewal is unlikely, the assigned value is written off. The leases associated with the purchased residuals expire at various dates within four years from the date of the purchase agreement. The value of purchased residuals as of June 30, 2003 and December 31, 2002 was \$2.8 million and \$2.9 million, respectively, and is recorded in other assets.

Note 6. Restructuring

In October 2002, the Company initiated a restructuring of the organization to reduce costs and improve operational efficiencies. As part of this restructuring, the Company reduced its headcount by 10%, or 39 employees, including two in manufacturing, seven in research and development and 30 in selling, general and administrative positions. The Company recorded restructuring costs of \$1.7 million in the fourth quarter of 2002 primarily related to employee severance and benefits.

In April 2003, the Company initiated a restructuring of the organization to reduce costs and improve operational efficiencies. As part of this restructuring, the Company reduced its headcount by 14 employees, including three in manufacturing, one in research and development and 10 in selling, general and administrative positions. The Company recorded restructuring costs of \$0.6 million in the second quarter of 2003 primarily related to employee severance and benefits.

During the first and second quarter of 2003, the Company paid \$1.5 million mainly for severance and benefit costs. As of June 30, 2003, the restructuring reserve balance was \$0.2 million, which will be paid through November 2003.

The following table sets forth the restructuring reserve activity through the second quarter of 2003 (in thousands):

	Severance and Benefits	Other	Total
Balance as of December 31, 2002	\$ 1,040	\$ 22	\$ 1,062
Cash payments	(749)	(22)	(771)
Balance as of March 31, 2003	291	—	291
Provision	594	36	630
Cash payments	(665)	(23)	(688)
Non-cash charges	(50)	—	(50)
Balance as of June 30, 2003	\$ 170	\$ 13	\$ 183

Note 7. Deferred Gross Profit

Deferred gross profit consists of the following (in thousands):

	June 30, 2003	December 31, 2002
Sales of medication and supply dispensing systems, which have been accepted but not yet installed	\$ 19,092	\$ 24,285
Cost of sales, excluding installation costs	(4,425)	(6,277)
Total	\$ 14,667	\$ 18,008

Note 8. Note Payable

On July 2, 2002, Omnicell signed a promissory note for \$2.1 million payable to AFI as part of an agreement to purchase all residual interests in Omnicell equipment covered by leasing agreements financed by AFI. The promissory note has an interest rate of 3.0% and is payable in quarterly installments of \$0.3 million over a period of up to 18 months. As of June 30, 2003 and December 31, 2002, the balance due on the promissory note was \$0.9 million and \$1.5 million, respectively.

Note 9. Credit Facilities

On August 1, 2002, Omnicell established with a bank a revolving credit facility and a non-revolving credit facility, which together totaled \$12.5 million. As of June 30, 2003, there were no outstanding borrowings under either of the credit facilities and the Company was in compliance with applicable covenants. Both credit facilities expired on July 31, 2003.

Note 10. Guarantees

In November 2002, FASB issued FIN No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others." FIN 45 elaborates on the existing disclosure requirements for most guarantees, including loan guarantees such as standby letters of credit. It also clarifies that at the time a company issues a guarantee, the company must recognize an initial liability for the fair market value of the obligations it assumes under that guarantee and must make certain disclosures in its interim and annual financial statements. The disclosure requirements are effective for financial statements interim or annual periods ending after December 15, 2002. The initial recognition and measurement provisions of FIN 45 apply on a prospective basis to guarantees issued or modified after December 31, 2002.

In the ordinary course of business, the Company, in the majority of its sales agreements with healthcare facilities, guarantees uptime and in some instances the response time of its products. Such guarantees vary in scope and, when defined, in duration. Generally, a maximum obligation is not explicitly stated and, therefore, the overall maximum amount of the liability under such guarantees cannot be reasonably estimated. Historically, the Company has not, individually or in the aggregate, made payments under these guarantees in any material amounts. In addition, the Company believes that the likelihood of a

liability being triggered under these guarantees is not significant. Accordingly the Company does not have any liabilities recorded for these guaranties as of June 30, 2003.

In the ordinary course of business, the Company, from time to time, enters into sales agreements with healthcare facilities that obligate the Company to make fixed payments upon the occurrence or non-occurrence of certain events. Such obligations primarily relate to instances where the Company has agreed to payments conditional on not meeting certain performance or delivery requirements. Generally, a maximum obligation is not explicitly stated and, therefore, the overall maximum amount of the liability under such obligations cannot be reasonably estimated. Historically, the Company has not, individually or in the aggregate, made payments under these obligations in any material amounts. In addition, the Company believes that the likelihood of a liability being triggered under these obligations is not significant. Accordingly, the Company does not have any liabilities recorded for these guaranties as of June 30, 2003.

Note 11. Deferred Stock Compensation

Deferred stock compensation for options granted to employees has been determined as the difference between the deemed fair market value of the Company's common stock on the date options were granted and the exercise price of those options. In connection with the grant of stock options to employees, the Company recorded no deferred stock compensation during the three and six months ended June 30, 2003 and 2002. Deferred stock compensation has been reflected as components of stockholders' equity and the deferred expense is being amortized to operations over the two to four year vesting periods of the options using the graded vesting method. In the three and six months ended June 30, 2003 and 2002, the Company amortized deferred stock compensation in the following amounts (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2003	2002	2003	2002
Research and development expense	\$ 11	\$ 32	\$ 21	\$ 63
Selling, general and administrative expenses	51	153	104	307
Total	\$ 62	\$ 185	\$ 125	\$ 370

Note 12. Shareholder Rights Plan

On February 6, 2003, the Company's Board of Directors approved the adoption of a Share Purchase Rights Plan (the "Plan"). Terms of the Plan provide for a dividend distribution of one preferred share purchase right (a "Right") for each outstanding share of common stock, par value \$0.001 per share (the "Common Shares"), of the Company. The dividend was payable on February 27, 2003 to the stockholders of record on that date.

The Rights are not exercisable until the distribution date, which is the earlier of the date of a public announcement that a person, entity or group of affiliated or associated persons have acquired beneficial ownership of 15% or more of the outstanding Common Shares (an "Acquiring Person") or (ii) 10 business days (or such later date as may be determined by action of the Board of

Directors prior to such time as any person or entity becomes an Acquiring Person) following the commencement of, or announcement of an intention to commence, a tender offer or exchange offer the consummation of which would result in any person or entity becoming an Acquiring Person. In the event that any person or group of affiliated or associated persons becomes an Acquiring Person or a tender offer is commenced or announced to commence, each stockholder holding a Right will thereafter have the right to receive upon exercise of the Right that number of shares of Common Stock having a market value of two times the exercise price of the Right. The description and terms of the Rights are set forth in a Rights Agreement, dated as of February 6, 2003 entered into between the Company and EquiServe Trust Company, N.A., as rights agent. Sutter Hill Ventures and ABS Capital Partners and their respective affiliated entities will be exempt from the Rights Plan, unless they acquire beneficial ownership of 17.5% or 22.5% or more, respectively, of Company's common stock. At no time will the Rights have any voting power. The Rights will expire on February 27, 2013, unless the Rights are earlier redeemed or exchanged by the Company.

Note 13. Comprehensive Income

The following are the components of comprehensive income (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2003	2002	2003	2002
Net income	\$ 1,291	\$ 1,778	\$ 1,736	\$ 3,428
Unrealized gain on short-term investments	—	41	—	1
Comprehensive income	\$ 1,291	\$ 1,819	\$ 1,736	\$ 3,429

Note 14. Commitments

On June 30, 2003, the Company signed an agreement to lease facilities in Mountain View, CA under an operating lease that expires in October 2008. Under this new lease agreement, the Company will occupy approximately 87,000 square feet of office space. The Company has contracted for certain improvements to be made to this new facility. The Company will maintain its facilities in Palo Alto, CA through October 2003, when it anticipates the move into the Mountain View facility will be completed. At June 30, 2003, future minimum payments under this new lease are as follows (in thousands):

For the years ended December 31,	New Lease
2003	—
2004	\$ 339
2005	1,370
2006	1,422
2007	1,488
2008	1,175
Total minimum lease payments	\$ 5,794

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

In addition to historical information, this report contains predictions, estimates and other forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended. Actual results could differ materially from any future performance suggested in this report as a result of many factors, including those referred to in "Factors That May Affect Future Operating Results" contained elsewhere in this report. The following discussion should be read in conjunction with the financial statements and notes included elsewhere herein and in our 2002 audited financial statements and notes thereto included in our 2002 Annual Report on Form 10-K, as amended. All forward-looking statements included in this document are based on information available to us on the date of this document, and except as required by law, we assume no obligation to update any of the forward-looking statements contained in this report to reflect any future events or developments.

Overview

We started our business in 1992 and began offering our supply automation systems for sale in 1993. In late 1996, we introduced our Omnicell medication dispensing system. In January 1999, we expanded our line of medication dispensing systems and customer base with the acquisition of the Sure-Med product line from Baxter Healthcare Corporation. In 2002, we acquired two additional products, Omnicell PharmacyCentral, a central pharmacy carousel storage and retrieval solution, and SafetyMed, a bedside automation solution. As of June 30, 2003, we had installed or released for installation 26,374 of our medication and supply dispensing systems at 1,409 healthcare facilities.

We sell our medication and supply dispensing systems primarily in the United States. We have a direct sales force organized into six regions in the United States and Canada. We sell through distributors in Europe, the Middle East, Asia and Australia. We manufacture the majority of our systems in our production facility in Palo Alto, California, with refurbishment and spare parts activities conducted in our Waukegan, Illinois facility.

We recognize revenue when our medication and supply dispensing systems are installed. Installation generally takes place three to six months after our systems are ordered since the acceptance process of our customers includes internal procedures associated with large capital expenditures and the time associated with adopting new technologies. Given the length of time for our customers to accept installation of our systems and to be more predictable and efficient in our manufacturing and installation processes, our focus is on shipping products based on the installation dates as requested by our customers and on growing product backlog. Product backlog is defined as the amount of product for which we have purchase orders that has not yet been installed at the customer site. We increased our product backlog by \$2.2 million during the quarter to \$32.7 million at June 30, 2003.

Critical Accounting Policies

Our discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in conformity with accounting principles generally accepted in the United States. Preparing financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results may differ from these estimates under different assumptions or conditions.

There have been no significant changes during the three and six months ended June 30, 2003 to the items which we disclosed as our critical accounting policies in Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2002.

Results of Operations

The following table sets forth certain items included in our results of operations for the three months ended June 30, 2003 and 2002, expressed as a percentage of total revenues for these periods:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2003	2002	2003	2002
Revenues:				
Product revenues	81.3%	85.0%	80.5%	85.6%
Service and other revenues	18.7	15.0	19.5	14.4
Total revenues	100.0	100.0	100.0	100.0
Cost of revenues:				
Cost of product revenues	35.1	32.2	35.0	32.4
Cost of service and other revenues	6.7	8.1	7.3	6.9
Total cost of revenues	41.8	40.3	42.3	39.3
Gross profit	58.2	59.7	57.7	60.7
Operating expenses:				
Research and development	8.4	8.8	9.5	9.9
Selling, general, and administrative	41.9	44.1	43.2	44.6
Restructuring	2.5	—	1.3	—
Total operating expenses	52.8	52.9	54.0	54.5
Income from operations	5.4	6.8	3.7	6.2
Interest and other income	0.5	0.7	0.6	1.7
Interest and other expense	(0.1)	(0.3)	(0.2)	(1.1)
Income before provision (benefit) for income taxes	5.8	7.2	4.1	6.8
Provision (benefit) for income taxes	0.7	0.1	(0.4)	(0.1)

Revenues

Total revenues increased 0.8% to \$25.1 million for the three months ended June 30, 2003 from \$24.9 million in the same period in 2002. Total revenues decreased 4.3% to \$47.2 million for the six months ended June 30, 2003 from \$49.4 million in the same period in 2002.

Product revenues decreased 3.6% to \$20.4 million for the three months ended June 30, 2003 from \$21.2 million in the same period in 2002. Product revenues decreased 10.0% to \$38.0 million for the six months ended June 30, 2003 from \$42.2 million in the same period in 2002. The decrease in product revenues for the three and six months ended June 30, 2003 was due to a decrease in the number of installed medication and supply dispensing systems. Although our product backlog increased for the period ended June 30, 2003 compared to the same period in 2002, product revenues decreased slightly due to the timing of installations caused by the availability of customer sites.

Service and other revenues include revenues from service and maintenance contracts, rentals of automation systems, amortization of up-front fees received from distributors and monthly subscription fees from hospital customers connected to our Internet-based procurement application. Service and other revenues increased 25.8% to \$4.7 million for the three months ended June 30, 2003 from \$3.7 million in the same period in 2002. Service and other revenues increased 29.4% to \$9.2 million for the six months ended June 30, 2003 from \$7.1 million in the same period in 2002. The increase in service and other revenues was primarily due to the increase in our installed base of automation systems.

Cost of Revenues

Total cost of revenues increased 4.5% to \$10.5 million for the three months ended June 30, 2003 from \$10.0 million in the same period in 2002. Total cost of revenues increased 2.8% to \$20.0 million for the six months ended June 30, 2003 from \$19.4 million in the same period in 2002. For the three months ended June 30, 2003, cost of revenues was 41.8% of total revenues as compared to 40.3% in the same period in 2002. For the six months ended June 30, 2003, cost of revenues was 42.3% of total revenues as compared to 39.3% in the same period in 2002.

Cost of product revenues consists primarily of direct materials, labor and overhead required to manufacture medication and supply dispensing systems and also includes costs required to install our systems and develop interfaces with our customer's systems. Cost of product revenues increased 10.1% to \$8.8 million for the three months ended June 30, 2003 from \$8.0 million in the same period in 2002. Cost of product revenues increased 3.3% to \$16.5 million for the six months ended June 30, 2003 from \$16.0 million in the same period in 2002. Gross profit on product sales was \$11.6 million, or 56.9% of product revenues for the three months ended June 30, 2003, as compared to \$13.2 million, or 62.2% of product revenues in the same period in 2002. Gross profit on product sales was \$21.5 million, or 56.5% of product revenues for the six months ended June 30, 2003, as compared to \$26.2 million, or 62.1% of product revenues in the same period in 2002. The decrease in gross profit percentages on product revenues was due to fewer higher margin sales and higher interface costs as well as price discounts to increase market share.

Costs of service and other revenues include spare parts required to maintain and support installed systems and service and maintenance expense, including outsourced contract services. Cost of service and other revenues decreased 17.3% to \$1.7 million for the three months ended June 30, 2003 from \$2.0 million in the same period in 2002. Cost of service and other revenues remained at \$3.4 million for the six months ended June 30, 2003 from \$3.4 million in the same period in 2002. For the three months ended June 30, 2003, gross margin on service and other revenues was \$3.0 million, or 64.3% of service and other revenues as compared to \$1.7 million, or 45.6% of service and other revenues in the same period in 2002. For the six months ended June 30, 2003, gross margin on service and other revenues was \$5.8 million, or 62.8% of service and other revenues as compared to \$3.7 million, or 52.1% of service and other revenues in the same period in 2002. The increase in gross margin on service and other revenues in the three and six months ended June 30, 2003 reflect a reduction in costs from servicing a larger installed base of customers, which typically requires less support in later years. This reduction in costs was partially offset by costs incurred as a result of moving our servicing efforts from an outsourced model to a model in which we use both our internal support group and support from a third-party service provider.

Operating Expenses

Research and Development. Research and development expenses declined 4.3% to \$2.1 million for the three months ended June 30, 2003, from \$2.2 million in the same period in 2002. Research and development expenses declined 8.3% to \$4.5 million for the six months ended June 30, 2003, from \$4.9 million in the same period in 2002. The decrease was due primarily to lower salary related expenses as a result of our October 2002 restructuring. Research and development expenses decreased as a percentage of total revenues to 8.4% in the three months ended June 30, 2003 compared to 8.8% in the same period in 2002. Research and development expenses decreased as a percentage of total revenues to 9.5% in the six months ended June 30, 2003 compared to 9.9% in the same period in 2002.

Selling, General and Administrative. Selling, general and administrative costs decreased 3.9% to \$10.6 million for the three months ended June 30, 2003 from \$11.0 million in the same period in 2002. Selling, general and administrative costs decreased 7.1% to \$20.4 million for the six months ended June 30, 2003 from \$22.0 million in the same period in 2002. The declines in selling, general and administrative expenses reflect lower salary related expenses as a result of the October 2002 restructuring and a reduction in travel costs, partially offset by higher professional fees for legal and accounting services. Selling, general and administrative costs decreased as a percentage of total revenues to 41.9% in the three months ended June 30, 2003 compared to 44.1% in the same period in 2002. Selling, general and administrative costs decreased as a percentage of total revenues to 43.2% in the six months ended June 30, 2003 compared to 44.6% in the same period in 2002.

Restructuring

Restructuring charges were \$0.6 million in 2003 and \$1.7 million in 2002. In 2003 and 2002, we restructured our organization to reduce costs and improve operational efficiencies. As part of this restructuring, we reduced headcount by 4.0%, or 14 employees in 2003, and by 10.0%, or 39 employees in 2002. As a result, we recorded restructuring costs of \$0.6 million in the second quarter of 2003 and \$1.7 million in the fourth quarter of 2002, primarily related to employee severance and benefits. The total cash outlay related to these charges through the six months ended June 30, 2003 and 2002 was \$1.5 million and \$0.6 million, respectively.

Interest and Other Income

Interest and other income decreased to \$0.1 million for the three months ended June 30, 2003 from \$0.2 million in the same period in 2002. The decrease was due primarily to a decrease in interest rates applied to cash and short-term investment balances. Interest and other income decreased to \$0.3 million for the six months ended June 30, 2003 from \$0.9 million in the same period in 2002. The decrease in interest and other income was due primarily to a recovery in the first quarter of 2002 of \$0.5 million from an investment in equity securities of a privately held company written off in a prior year. The entire balance for the six months ended June 30, 2003 and the remaining balance in the same period in 2002 were comprised primarily of interest income from cash, short-term investments, and notes receivable from stockholders.

Interest and Other Expense

Interest and other expense decreased to \$32,000 for the three months ended June 30, 2003, from \$87,000 in the same period in 2002. Interest and other expense decreased to \$77,000 for the six months ended June 30, 2003, from \$0.5 million in the same period in 2002. This decrease was primarily due to a write-off of an investment in equity securities of a privately held company of \$0.4 million that was deemed impaired in the first quarter of 2002.

Provision (Benefit) for Income Taxes

The tax provision for the three and six months ended June 30, 2003 was \$170,000 and \$186,000, respectively. The tax provision for the three months ended June 30, 2002 was \$25,000. The tax benefit for the six months ended June 30, 2002 was \$35,000. California has suspended the use of California net operating loss carryforwards for 2002 and 2003. Accordingly, the tax provision recorded in the first six months ended June 30, 2003 includes California income taxes, federal alternative minimum taxes and other state income taxes. The tax benefit recorded in the first six months ended June 30, 2002 includes a tax benefit of \$85,000 relating to a change in the calculation of the alternative minimum tax credit resulting from the Job Creation and Worker Assistance Act of 2002, which has been partially offset by a provision for state income taxes.

The Company has federal and state net operating loss carryforwards from prior years available to offset future income. The federal net operating loss carryforwards are approximately \$56.4 million which expire in the years 2010 through 2022 and the state net operating loss carryforwards are approximately \$24.8 million which expire in the years 2005 through 2010. Utilization of the Company's net operating loss may be subject to substantial annual limitation due to the ownership change limitations provided by the Internal Revenue Code and similar state provisions. Such an annual limitation could result in the expiration of the net operating loss before utilization.

Backlog

During the fourth quarter of 2002, we changed our focus from growing deferred gross profit, which is based on shipment growth, to growing product backlog, which is based on order growth. Our product backlog increased \$2.2 million to \$32.7 million as of June 30, 2003, from \$30.5 million as of March 31, 2003.

Liquidity and Capital Resources

As our primary source of liquidity, we held cash, cash equivalents and short-term investments of \$28.0 million as of June 30, 2003 compared to \$21.5 million as of December 31, 2002. Our funds are currently invested in institutional money market funds and short-term interest-bearing securities.

We generated cash of \$5.0 million from operating activities during the first six months of 2003 compared to \$2.2 million used in operating activities in the first six months of 2002. The increase in cash flows from operating activities resulted primarily from changes in operating assets and liabilities including lower inventory levels, increased accrued liabilities and the reduction of other assets which included \$1.6 million of cash received in the first six months of 2003 from the sale of a portion of our lease portfolio. These amounts were partially offset by the reduction in net income and a reduction in accounts payable.

We used \$2.5 million of cash in investing activities in the six months ended June 30, 2003 compared to \$1.3 million used in the same period in 2002. Cash used in investing activities included expenditures for property and equipment of \$0.6 million and \$1.1 million for the six months ended June 30, 2003 and 2002, respectively. Additionally, net purchases of short-term investments were \$1.9 million in the six months ended June 30, 2003 compared to net purchases of \$0.2 million for the six months ended June 30, 2002.

We generated \$2.2 million from financing activities in the six months ended June 30, 2003 compared to \$0.8 million generated in the first six months of 2002. Financing activities consisted of raising funds through issuances of our common stock primarily as a result of the exercise of employee stock options and stock issuances under the employee stock purchase plan and repayment of notes receivable from certain stockholders.

On August 1, 2002, we established with a bank a revolving credit facility and a non-revolving credit facility, which together totaled \$12.5 million. As of June 30, 2003, we had no outstanding borrowings under either of the credit facilities and were in compliance with applicable covenants. Both credit facilities expired on July 31, 2003 and we currently have no plans to establish similar credit arrangements.

We believe our current cash balances and cash flows generated by operations will be sufficient to satisfy our anticipated cash needs for working capital and capital expenditures for at least the next twelve months. However, if demand for our products and services

does not continue as currently anticipated, we may be required to raise additional capital through the public equity market, private financings, collaborative arrangements and debt. In addition, in certain circumstances we may decide that it is in our best interests to raise additional capital to take advantage of opportunities in the marketplace. If additional capital is raised through the issuance of equity or securities convertible into equity, our stockholders may experience dilution, and such securities may have rights, preferences or privileges senior to those of the holders of the common stock. Additional financing may not be available to us on favorable terms, if at all. If we are unable to obtain financing, or to obtain it on acceptable terms, we may be unable to execute our business plan.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

There were no significant changes in the quantitative and qualitative disclosures of market risk related to changes in interest rates, foreign currency exchange rates and equity prices from the Company's Form 10-K as filed with the Securities and Exchange Commission for the fiscal year ended December 31, 2002.

Factors That May Affect Future Operating Results

Any reduction in the growth and acceptance of our medication and supply dispensing systems and related services would harm our business.

Our medication and supply dispensing systems represent a relatively new approach to managing the distribution of pharmaceuticals and supplies at healthcare facilities. Many healthcare facilities still use traditional approaches that do not include automated methods of medication and supply dispensing management. As a result, we must continuously educate existing and prospective customers about the advantages of our products. Our medication and supply dispensing systems typically represent a sizeable initial capital expenditure for healthcare organizations. Changes in the budgets of these organizations and the timing of spending under these budgets can have a significant effect on the demand for our medication and supply dispensing systems and related services. In addition, these budgets are often characterized by limited resources and conflicting spending priorities among different departments. Any decrease in expenditures by these healthcare facilities, particularly our significant customers, could decrease demand for our medication and supply dispensing systems and related services and harm our business. We cannot assure you that we will continue to be successful in marketing our medication and supply dispensing systems or that the level of market acceptance of such systems will be sufficient to generate operating income.

The healthcare industry faces financial constraints and consolidation that could adversely affect the demand for our products and services.

The healthcare industry has faced, and will likely continue to face, significant financial constraints. For example, the shift to managed care in the 1990s put pressure on healthcare organizations to reduce costs, and the Balanced Budget Act of 1997 significantly reduced Medicare reimbursement to healthcare organizations. Our automation solutions often involve a significant financial commitment by our customers, and, as a result, our ability to grow our business is largely dependent on our customers' information technology budgets. To the extent healthcare information technology spending declines or increases more slowly than we anticipate, demand for our products and services would be adversely affected.

Many healthcare providers have consolidated to create larger healthcare delivery organizations with greater market power. If this consolidation continues, it could erode our customer base and reduce the size of our target market. In addition, the resulting organizations could have greater bargaining power, which may lead to price erosion.

The medication management and supply chain solutions market is highly competitive and we may be unable to compete successfully against new entrants and established companies with greater resources.

The medication management and supply chain solutions market is intensely competitive and is characterized by evolving technologies and industry standards, frequent new product introductions and dynamic customer requirements. We expect continued and increased competition from current and future competitors, many of whom have significantly greater financial, technical, marketing and other resources than we do. Our current direct competitors in the medication management and supply chain solutions market include Pyxis Corporation (a division of Cardinal Health, Inc.) and Automated Healthcare (a division of McKesson Corporation). Pyxis Corporation, in particular, has a significantly larger installed base of customers than we do and over the last couple of years has developed and introduced to the market a significantly larger number of new products. With the acquisition of Omnicell PharmacyCentral and SafetyMed and the development of our open systems solutions, we have gained additional competitors. They include the Baxter Medication Delivery business of Baxter International Inc., Bridge Medical, Inc. (an AmerisourceBergen company), Care Fusion, Cerner Corporation, Eclipsys Technologies Corporation, IDX Systems Corporation, and Siemens Medical Solutions (a division of Siemens AG).

The competitive challenges we face in the medication management and supply chain solutions market include, but are not limited to:

- Our competitors may develop, license or incorporate new or emerging technologies or devote greater resources to the development, promotion and sale of their products and services.
- Certain competitors have greater name recognition and a more extensive installed base of medication and supply dispensing

systems or other products and services, and such advantages could be used to increase their market share.

- Other established or emerging companies may enter the medication management and supply chain solutions market.
- Current and potential competitors may make strategic acquisitions or establish cooperative relationships among themselves or with third parties, including larger, more established healthcare supply companies, thereby increasing their ability to develop and offer products and services to address the needs of our prospective customers.
- Our competitors may secure products and services from suppliers on more favorable terms or secure exclusive arrangements with suppliers or buyers that may impede the sales of our products and services.

Competitive pressures could result in price reductions of our products and services, fewer customer orders and reduced gross margins, any of which could harm our business.

We have a history of operating losses and we cannot assure you that we will maintain profitability.

We had net losses of \$26.3 million, \$20.8, and \$1.2 million in 1999, 2000, and 2001 respectively. While we were profitable in the first and second quarters of 2002 and the first and second quarters of 2003, we had a net loss of \$5.0 million for the year ended December 31, 2002. As of June 30, 2003, we had an accumulated deficit of approximately \$97.0 million. We can not assure you that we will be able to maintain or increase profitability in the future on a quarterly or annual basis.

Our quarterly operating results may fluctuate significantly and may cause our stock price to decline.

Our quarterly operating results may vary significantly in the future depending on many factors that may include, but are not limited to, the following:

- the size and timing of orders for our medication and supply dispensing systems, and their installation and integration;
- the overall demand for healthcare medication management and supply chain solutions;
- changes in pricing policies by us or our competitors;
- the number, timing and significance of product enhancements and new product announcements by us or our competitors;
- the relative proportions of revenues we derive from products and services;
- our customers' budget cycles;
- changes in our operating expenses;
- the performance of our products;
- changes in our business strategy; and
- economic and political conditions, including fluctuations in interest rates and tax increases.

Due to the foregoing factors, our quarterly revenues and operating results are difficult to predict.

The purchase of our medication and supply dispensing systems is often part of a customer's larger initiative to re-engineer their pharmacy, distribution and materials management systems. As a result, the purchase of our medication and supply dispensing systems generally involves a significant commitment of management attention and resources by prospective customers and often requires the input and approval of many decision-makers, including pharmacy directors, materials managers, nurse managers, financial managers, information systems managers, administrators and boards of directors. For these and other reasons, the sales cycle associated with the sale or lease of our medication and supply dispensing systems is often lengthy and subject to a number of delays over which we have little or no control. We cannot assure you that we will not experience delays in the future. A delay in, or loss of, sales of our medication and supply dispensing systems could cause our operating results to vary significantly from quarter to quarter and could harm our business. In addition, many of our hospital customers are often slow to install our systems after they are purchased for reasons that are outside our control. Since we recognize revenue only upon installation of our systems at a customer's site, any delay in installation by our customers could also cause a reduction in our revenue for a given quarter. For all the above reasons, we believe that period-to-period comparisons of our operating results are not necessarily indicative of our future performance. Fluctuation in our quarterly operating results may cause our stock price to decline.

If our U.S. government customers do not receive their annual funding, our ability to recognize revenues on future sales to U.S. government customers could be significantly impaired and could result in a write down of our U.S. government leases.

U.S. government customers sign five-year non-cancelable leases but are subject to one-year government budget funding cycles. In our judgment and based on our history with these accounts, we believe these leases are collectible. However, in the future, if any of our U.S. government customers do not receive their annual funding, their lease payments could be delayed or stopped which could significantly impair our ability to recognize revenues on future sales to U.S. government customers and result in a write down of our unsold leases to U.S. government customers. As of June 30, 2003 the balance of our unsold leases to U.S. government customers was \$0.7 million.

If we are unable to recruit and retain skilled and motivated personnel, our competitive position, results of operations and financial condition could be harmed.

Our success is highly dependent upon the continuing contributions of our key management, sales, technical and engineering staff. Retaining these existing key personnel will be essential to our continued success. In addition, we believe that our future success will depend upon our ability to attract, train and retain new highly skilled and motivated personnel. As our products are installed in increasingly complex environments, greater technical expertise will be required. As our installed base of customers increases, we will also face additional demands on our customer service and support personnel, requiring additional resources to meet these demands. We may experience difficulty in recruiting qualified personnel. Competition for qualified technical, engineering, managerial, sales, marketing, financial reporting and other personnel can be intense and we cannot assure you that we will be successful in attracting and retaining qualified personnel. Competitors have in the past attempted, and may in the future attempt, to recruit our employees. Failure to attract and retain key personnel could harm our competitive position, results of operations and financial condition.

If we are unable to maintain our relationships with group purchasing organizations or other similar organizations, we may have difficulty selling our products and services.

We have agreements with various group purchasing organizations, such as Premier, Inc., Novation, LLC, Consorta, Inc., AmeriNet, Inc., and Broadlane, Inc., which enable us to sell more readily our products and services to customers represented by these organizations. Our relationships with these organizations are terminable at the convenience of either party. The loss of our relationship with Premier, for example, could impact the breadth of our customer base and could

impair our ability to increase our revenues. We cannot guarantee that these organizations will renew our contracts on similar terms, if at all, and we cannot guarantee that they will not terminate our contracts before they expire.

We depend on a limited number of suppliers for our medication and supply dispensing systems, and our business may suffer if we are unable to obtain an adequate supply of components and equipment on a timely basis.

Our production strategy for our medication and supply dispensing systems is to work closely with several key sub-assembly manufacturers and equipment providers and utilize lower cost manufacturers whenever possible. Although many of the components of our systems are standardized and available from multiple sources, certain components or subsystems are fabricated according to our specifications. At any given point in time, we may only use a single source of supply for certain components. Our failure to obtain alternative vendors, if required, for any of the numerous components used to manufacture our products would limit our ability to manufacture our products and could harm our business. In addition, any failure of a maintenance contractor to perform adequately could harm our business.

We depend on services from third parties to support our products, and if we are unable to continue these relationships and maintain their services, our competitive position, results of operations and financial condition could be harmed.

Our ability to develop, manufacture and support our existing products and any future products depends upon our ability to enter into and maintain contractual arrangements with others. We currently depend upon services from a number of third-party vendors, including Dade Behring, Inc., to support our products. We cannot be sure that we will be able to maintain our existing or future service arrangements, or that we will be able to enter into future arrangements with third parties on terms acceptable to us, or at all. If we fail to maintain our existing service arrangements or to establish new arrangements when and as necessary, our competitive position, results of operations and financial condition could be harmed.

If we are unable to successfully integrate our automation solutions with the existing information systems of our customers, they may choose not to use our products and services.

For healthcare facilities to fully benefit from our automation solutions, our systems must integrate with their existing information systems. This may require substantial cooperation, investment and coordination on the part of our customers. There is little uniformity in

the systems currently used by our customers, which complicates the integration process. If these systems are not successfully integrated, our customers could choose not to use or to reduce their use of our automation solutions, which would harm our business.

Our failure to protect our intellectual property rights could adversely affect our ability to compete.

We believe that our success depends in part on our ability to obtain patent protection for products and processes and our ability to preserve our trademarks, copyrights and trade secrets. We have pursued patent protection in the United States and foreign jurisdictions for technology that we believe to be proprietary and for technology that offers us a potential competitive advantage for our products, and we intend to continue to pursue such protection in the future. Our issued patents relate to various features of our medication and supply dispensing systems. There can be no assurance that we will file any patent applications in the future, that any of our patent applications will result in issued patents or that, if issued, such patents will provide significant protection for our technology and processes. Furthermore, there can be no assurance that others will not develop technologies that are similar or superior to our technology or that others will not design around the patents we own. All of our operating system software is copyrighted and subject to the protection of applicable copyright laws. Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to copy aspects of our products or obtain and use information that we regard as proprietary.

Intellectual property claims against us could harm our competitive position, results of operations and financial condition.

We are aware of one third-party patent issued several years ago that may relate to certain of our products. Although we have received no notice alleging infringement from this third party to date, there can be no assurance that such third party will not assert an infringement claim against us in the future. Other than this patent, we do not believe that any of our products infringe upon the proprietary rights of any third parties. We cannot assure you, however, that third parties will not claim that we have infringed upon their intellectual property rights with respect to current or future products. We expect that developers of medication and supply dispensing systems will be increasingly subject to infringement claims as the number of products and competitors in our industry grows and the functionality of products in different industry segments overlaps. We do not possess special insurance that covers intellectual property infringement claims; however, such claims may be covered under our traditional insurance policies. These policies contain terms, conditions and exclusions that make recovery for intellectual infringement claims difficult to guarantee. Any infringement claims, with or without merit, could be time-consuming to defend, result in costly litigation, divert management's attention and resources, cause product shipment delays or require us to enter into royalty or licensing agreements. These royalty or licensing agreements, if required, may not be available on terms acceptable to us, or at all, which could harm our competitive position, results of operations and financial condition.

Product liability claims against us could harm our competitive position, results of operations and financial condition.

Our products provide medication management and supply chain solutions for healthcare. Despite the presence of healthcare professionals as intermediaries between our products and patients, if our products fail to provide accurate and timely information or operate as designed, customers, patients or their family members could assert claims against us for product liability. Also, in the event that any of our products is defective, we may be required to recall or redesign those products. Litigation with respect to liability claims, regardless of its outcome, could result in substantial cost to us, divert management's attention from operations and decrease market acceptance of our products. Although we have not experienced any product liability claims to date, the sale and support of our products entail the risk of product liability claims. We possess a variety of insurance policies that include coverage for general commercial liability and technology errors and omissions liability. However, these policies may not be adequate against product liability claims. A successful claim brought against us, or any claim or product recall that results in negative publicity about us, could harm our competitive position, results of operations and financial condition.

Changing customer requirements could decrease the demand for our products and services.

The medication management and supply chain solutions market is intensely competitive and is characterized by evolving technologies and industry standards, frequent new product introductions and dynamic customer requirements that may render existing products obsolete or less competitive. As a result, our

position in the medication management and supply chain solutions market could erode rapidly due to unforeseen changes in the features and functions of competing products, as well as the pricing models for such products. Our future success will depend in part upon our ability to enhance our existing products and services and to develop and introduce new products and services to meet changing customer requirements. The process of developing products and services such as those we offer is extremely complex and is expected to become increasingly complex and expensive in the future as new technologies are introduced. If we are unable to enhance our existing products or develop new products to meet changing customer requirements, demand for our products could decrease.

We may be required to seek additional financing to meet our future capital needs, which we may not be able to secure on favorable terms, or at all.

We plan to continue to expend substantial funds for research and development activities, product development, integration efforts and expansion of accounts receivable and sales and marketing activities. We may be required to expend greater than anticipated funds if unforeseen difficulties arise in the course of completing the development and marketing of our products or services or in other aspects of our business. Our future liquidity and capital requirements will depend upon numerous factors, including:

- the development of new products and services on a timely basis;
- the receipt and timing of orders for our medication and supply dispensing systems;
- the cost of developing increased manufacturing and sales capacity; and
- the timely collection of accounts receivable.

As a result of the foregoing factors, it is possible that we will be required to raise additional funds through public or private financings, collaborative relationships or other arrangements. We cannot assure you that this additional funding, if needed, will be available on terms attractive to us, if at all. Furthermore, any additional equity financing may be dilutive to stockholders, and debt financing, if available, may involve restrictive covenants that could affect our ability to pay dividends or raise additional capital. Our failure to raise capital when needed could harm our competitive position, results of operations and financial condition.

If our new Omnicell PharmacyCentral and SafetyMed products do not achieve market acceptance, our sales and operating results will be affected.

We acquired two new products in the second half of 2002, Omnicell PharmacyCentral and SafetyMed, both of which we believe are competitive in their respective markets and will meet the demands of our customers for central pharmacy storage and retrieval and bedside automation. Our current business goals are dependent in part on customer acceptance of these new products. We cannot assure you that we will be successful in marketing these systems, that these products will compete effectively with similar products sold by our competitors or that the level of market acceptance of such systems will be sufficient to generate expected revenues and synergies with our other products.

In addition, deployment of Omnicell PharmacyCentral and SafetyMed requires interoperability with other Omnicell products as well as with healthcare facilities' existing information management systems. If these products fail to satisfy these demanding technological objectives, our customers will be dissatisfied and we may be unable to generate future sales. Failure to establish a significant base of customer references will significantly reduce our ability to sell these products to additional customers.

We may not be able to successfully integrate acquired businesses or technologies into our existing business.

As a part of our business strategy, we recently acquired SafetyMed and Omnicell PharmacyCentral and we may seek to acquire other businesses, technologies or products in the future. While we expect to analyze carefully all potential transactions before committing to them, we cannot assure you that any transaction that is completed will result in long-term benefits to us or our stockholders, or that our management will be able to integrate or manage the acquired businesses effectively. Acquisitions entail numerous risks, including difficulties associated with the integration of operations, technologies, products and personnel that, if realized, could harm our operating results. Risks related to potential acquisitions include, but are not limited to:

- uncertain availability of suitable businesses, products or technologies for acquisition on terms acceptable to us;
- difficulties in combining previously separate businesses into a single unit;
- the substantial diversion of management's attention from day-to-day business when evaluating and negotiating these transactions and then integrating an acquired business;
- the discovery, after completion of the acquisition, of liabilities assumed from the acquired business or of assets acquired that are not realizable;
- the failure to achieve anticipated benefits such as cost savings and revenue enhancements;

- difficulties related to assimilating the products of an acquired business; and
- failure to understand and compete effectively in markets in which we have limited previous experience.

Any deterioration in our relationship with Commerce One would adversely affect our Internet-based procurement capabilities.

We have entered into an agreement with Commerce One, Inc., a provider of business-to-business technology solutions that link buyers and suppliers of goods and services to trading communities using the Internet. Our agreement with Commerce One enables us to implement a customized version of Commerce

One's BuySite software at customer sites. We cannot be sure that Commerce One will not license its BuySite technology to our competitors. We cannot guarantee that Commerce One will be able to develop and introduce enhancements to its products that keep pace with emerging technological developments and emerging industry standards. In addition, we cannot guarantee that the Commerce One network will not experience performance problems or delays. The failure by Commerce One in any of these areas could harm our Internet-based procurement capabilities.

Government regulation of the healthcare industry could adversely affect demand for our products.

While the manufacture and sale of our current products are not regulated by the United States Food and Drug Administration (FDA), we cannot assure you that these products, or our future products, if any, will not be regulated in the future. A requirement for FDA approval could have a material adverse effect on the demand for our products. Pharmacies are regulated by individual state boards of pharmacy that issue rules for pharmacy licensure in their respective jurisdictions. State boards of pharmacy do not license or approve our medication and supply dispensing systems; however, pharmacies using our equipment are subject to state board approval. The failure of such pharmacies to meet differing requirements from a significant number of state boards of pharmacy could decrease demand for our products and harm our competitive position, results of operations and financial condition. Similarly, hospitals must be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) in order to be eligible for Medicaid and Medicare funds. JCAHO does not approve or accredit medication and supply dispensing systems; however, disapproval of our customers' medication and supply dispensing management methods and their failure to meet JCAHO requirements could decrease demand for our products and harm our competitive position, results of operations and financial condition.

While we have implemented a Privacy and Use of Information Policy and strictly adhere to established privacy principles, use of customer information guidelines and federal and state statutes and regulations regarding privacy and confidentiality, we cannot assure you that we will be in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This legislation requires the Secretary of Health and Human Services (HHS), to adopt national standards for some types of electronic health information transactions and the data elements used in those transactions, to adopt standards to ensure the integrity and confidentiality of health information and to establish a schedule for implementing national health data privacy legislation or regulations. In August 2002, HHS published final modifications to its privacy regulations that took effect on April 14, 2003. These regulations restrict the use and disclosure of personally identifiable health information by our customers who are "covered entities" under HIPAA. Because Omnicell may be considered a "business associate" under HIPAA, many of our customers have required that we enter into written agreements governing the way we handle any patient information we may encounter in providing our products and services. In February 2003, HHS issued final security rules requiring covered entities to implement appropriate technical and physical safeguards of electronically transmitted personal health information by April 2005. We cannot predict the potential impact of these rules, rules that have not yet been proposed or any other rules that might be finally adopted on our customers or on Omnicell. In addition, other federal and/or state privacy legislation may be enacted at any time. These laws and regulations could restrict the ability of our customers to obtain, use or disseminate patient information. This could adversely affect demand for our products or force us to redesign our products in order to meet regulatory requirements.

We adopted a stockholder rights plan that may discourage, delay or prevent a merger or acquisition that is beneficial to our stockholders.

In February 2003, our Board of Directors adopted a stockholder rights plan that may have the effect of discouraging, delaying or preventing a merger or acquisition that is beneficial to our stockholders by diluting the ability of a potential acquiror to acquire us. Pursuant to the terms of the plan, when a person or group, except under certain circumstances, acquires 15% or more of our outstanding common stock (other than two current stockholders and their affiliated entities, which will not trigger the rights plan unless they acquire beneficial ownership of 17.5% and 22.5% or more, respectively, of our outstanding common stock) or ten business days after commencement or announcement of a tender or exchange offer for 15% or more of our outstanding common stock, the rights (except those rights held by the person or group who has acquired or announced an offer to acquire 15% or more of our outstanding common stock) would generally become exercisable for shares of our common stock at a discount. Because the potential acquiror's rights would not become exercisable for our shares of common stock at a discount, the potential acquiror would suffer substantial dilution and may lose its ability to acquire us. In addition, the existence of the plan itself may deter a potential acquiror from acquiring us. As a result, either by operation of the plan or by its potential deterrent effect, mergers and acquisitions of us that our stockholders may consider in their best interests may not occur.

Our facilities are located near known earthquake fault zones, and the occurrence of an earthquake or other natural disaster or any other catastrophic event could cause damage to our facilities and equipment, which could require us to cease or curtail operations.

Our facilities are located near known earthquake fault zones and are vulnerable to significant damage from earthquakes. We are also vulnerable to damage from other types of disasters, including tornadoes, fires, floods, power loss, communications failures and similar events including the effects of war or acts of terrorism. If any disaster were to occur, our ability to operate our business at our facilities could be seriously or completely impaired or destroyed. The insurance we maintain may not be adequate to cover our losses resulting from disasters or other business interruptions.

Recently enacted and proposed changes in securities and other laws and regulations are likely to increase our costs.

The Sarbanes-Oxley Act of 2002 that became law in July 2002 requires changes in some of our corporate governance and securities disclosure or compliance practices. That Act also requires the SEC to promulgate new rules on a variety of subjects, in addition to rule proposals already made, and Nasdaq has proposed revisions to its requirements for companies that are Nasdaq-listed. We expect these developments to increase our legal and accounting compliance costs, and to make some activities more difficult, such as stockholder approval of new option plans. We expect these developments could make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These developments could make it more difficult for us to attract and retain qualified members of our board of directors, or qualified executive officers. We are presently evaluating and monitoring regulatory developments and cannot estimate the timing or magnitude of additional costs we may incur as a result.

Item 4. CONTROLS AND PROCEDURES

Evaluation of disclosure controls and procedures

Based on their evaluation as of June 30, 2003, our chief executive officer and chief financial officer have concluded that Omnicell's disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, were sufficiently effective to ensure that the information required to be disclosed by Omnicell in this quarterly report on Form 10-Q was recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and Form 10-Q.

Changes in internal controls

There have been no changes in our internal control over financial reporting during the quarter ended June 30, 2003 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the Effectiveness of Controls

Our management, including the chief executive officer and chief financial officer, does not expect that our disclosure controls and procedures or our internal controls over financial reporting will prevent all errors and all fraud. A control system, no matter how

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well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the company have been detected. These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of simple errors or mistakes. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected. Accordingly, our disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of our disclosure control system are met and, as set forth above, our chief executive officer and chief financial officer have concluded, based on their evaluation as of June 30, 2003, that our disclosure controls and procedures were sufficiently effective to provide reasonable assurance that the objectives of our disclosure control system were met.

PART II—OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

None.

ITEM 2. CHANGES IN SECURITIES AND USE OF PROCEEDS

None

ITEM 3. DEFAULT UPON SENIOR SECURITIES

None.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

Our Annual Meeting of Stockholders was held on May 21, 2003. Proxies for the meeting were solicited pursuant to Regulation 14A. At the meeting, management's nominees for three new Class 2 directors to serve until the Annual Meeting of Stockholders in 2006 were submitted to our stockholders for election, and a proposal to ratify the selection of Ernst & Young LLP as independent auditors of Omnicell for its fiscal year ending December 31, 2003 was submitted to our stockholders for election.

Management's nominee for director, Randall A. Lipps, was elected by the following vote:

For: 18,229,420
Withheld: 189,669

Management's nominee for director, Brock D. Nelson, was elected by the following vote:

For: 18,411,737
Withheld: 7,352

Management's nominee for director, Joseph E. Whitters, was elected by the following vote:

For: 18,411,737
Withheld: 7,352

Charles J. Barnett, Kevin L. Roberg, John D. Stobo, Benjamin A. Horowitz, Sara J. White, William H. Younger and Randy Lindholm also continued to serve as directors after the annual meeting. Messrs. Barnett, Roberg and Stobo will continue to serve as directors until the Annual Meeting of Stockholders to be held in 2004. Mr. Horowitz, Ms. White, Mr. Younger and Mr. Lindholm will continue to serve as directors until the Annual Meeting of Stockholders to be held in 2005.

The proposal to ratify the selection of Ernst & Young LLP as our independent auditors for the fiscal year ending December 31, 2003 was approved by the following vote:

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For: 18,409,308
Against: 8,645
Abstain: 1,136

ITEM 5. OTHER INFORMATION

In accordance with Section 10A(i)(2) of the Securities Exchange Act of 1934, (the "Act"), as added by Section 202 of the Sarbanes-Oxley Act of 2002, we are required to disclose the non-audit services approved by Omnicell's Audit Committee to be performed by Omnicell's external auditor in the three months ended June 30, 2003. Non-audit services are defined in the Act as services other than those provided in connection with an audit or review of the financial statements of a company. The non-audit services performed by the Company's external auditor during the three months ended June 30, 2003 were each approved by the Audit Committee. During the six months ended June 30, 2003, the Audit Committee approved engagements of Ernst & Young LLP, the Company's external auditor, for the following non-audit services: tax matter consultations concerning state and foreign taxes; and preparation of federal, state, and foreign income tax returns; audit-related services for Form S-8 registration statement; and services related to compliance with Section 404 of the Sarbanes-Oxley Act of 2002.

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits.

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Exhibit Description</u>
3.1(1)	Amended and Restated Certificate of Incorporation of Omnicell.
3.2 (2)	Certificate of Designation of Series A Junior Participating Preferred Stock.
3.3(3)	Bylaws of Omnicell.
4.1	Reference is made to Exhibits 3.1 and 3.2.
4.2(4)	Form of Common Stock Certificate.
10.24	Real Property Lease, dated June 30, 2003, between Shoreline Park, LLC and Omnicell, Inc.
31.1	Certification of Chief Executive Officer required by Rule 13a-14(a) or Rule 15d-14(a).
31.2	Certification of Chief Financial Officer required by Rule 13a-14(a) or Rule 15d-14(a).
32.1	Certifications required by Rule 13a-14(b) or Rule 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350).

- (1) Previously filed as the like-numbered Exhibit to our report on Form 10-Q for the quarter ended September 30, 2001, as filed with the Securities Exchange Commission on November 14, 2001.
- (2) Previous filed as the like-numbered Exhibit to our report on Form 10-K for the fiscal year ended December 31, 2003, as filed with the Securities Exchange Commission on March 28, 2003.
- (3) Previously filed as Exhibit 3.6 to our Registration Statement on Form S-1, Registration No. 333-57024.
- (4) Previously filed as Exhibit 4.1 to our Registration Statement on Form S-1, Registration No. 333-57024.

(b) Reports on Form 8-K.

The following report on Form 8-K was filed during the three month period ended June 30, 2003:

- (i) On April 18, 2003, we filed a current report on Form 8-K relating to the issuance of a press release announcing Omnicell's financial results for the quarter ended March 31, 2003.

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SIGNATURES

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed in its behalf by the undersigned thereunto duly authorized.

OMNICELL, INC.

Date: August 7, 2003

/s/ DENNIS P. WOLF

Dennis P. Wolf

*Executive Vice President of Operations, Finance and
Administration, and Chief Financial Officer
(Principal Financial and Accounting Officer)*

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LEASE

BY AND BETWEEN

SHORELINE PARK, LLC,
a Delaware limited liability company
as Landlord

and

OMNICELL Inc.,
as Tenant

For Premises located at
1201 Charleston Road,
Mountain View, California

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LEASE

This Lease is dated as of the lease reference date specified in [Section A](#) of the Summary of Basic Lease Terms and is made by and between the party identified as Landlord in [Section B](#) of the Summary and the party identified as Tenant in [Section C](#) of the Summary.

SUMMARY OF BASIC LEASE TERMS

SECTION
(LEASE REFERENCE)

TERMS

A. (Introduction)	<u>Lease Reference Date:</u>	June 11, 2003
B. (Introduction)	<u>Landlord:</u>	SHORELINE PARK, LLC a Delaware limited liability company
C. (Introduction)	<u>Tenant:</u>	OMNICELL, INC. a Delaware corporation
D. (§ 1.20)	<u>Premises:</u>	That area consisting of approximately 86,995 square feet of gross leasable area the address of which is 1201 Charleston Road, Mountain View, California, and which is located within the Building as shown on <u>Exhibit A</u> .
F. (§1.21)	<u>Project:</u>	The parcel(s) of land containing the Building and Common Area and the other improvements located on said land, all as outlined in <u>Exhibit A</u> .
F. (§ 1.7)	<u>Building:</u>	The building in which the Premises are located having an address of 1201 Charleston Road, Mountain View, California, and containing approximately 86,995 square feet of gross leasable area. The rentable square footage ("RSF") of the Premises will be determined by measurement based on the final Space Plans in accordance with Paragraph 8 of <u>Exhibit B</u> .
G.	<u>Tenant's Share:</u>	Not applicable. Tenant shall not be required to pay for operating expenses.
H.	<u>Tenant's Allocated Parking Stalls:</u>	Tenant is entitled to use the 290 parking stalls at the Project located adjacent to the Premises and outlined on <u>Exhibit A</u> .
I. (§ 1.24)	<u>Scheduled Commencement Date:</u>	October 1, 2003.
J. (§ 1.17)	<u>Lease Term:</u>	60 calendar months (plus the partial month following the Commencement Date if such date is not the first day of a month). If the Commencement Date is other than the first day

of a calendar month, the first month shall include the remainder of the calendar month in which the Commencement Date occurs plus the first full calendar month thereafter, and Base Monthly Rent for such first month shall include the full Base Monthly Rent for the first full calendar month plus Base Monthly Rent for the partial month in which the Commencement Date occurs prorated on a daily basis

See Addendum No. 1 for Tenant's option to extend.

K. (§ 3.1)	<u>Base Monthly Rent:</u>	<u>Months</u>	<u>Monthly Amount</u>	<u>Amount/RSF</u>
		1 – 12	-0-	-0-
		13 – 24	\$ 113,093.50	\$ 1.30
		25 – 36	\$ 117,443.25	\$ 1.35
		37 – 48	\$ 121,793.00	\$ 1.40
		49 – 60	\$ 130,492.50	\$ 1.50

In the event the actual rentable square footage of the Premises is more or less than 86,995, as determined in accordance with Paragraph 8 of Exhibit B, the amount of the Base Monthly Rent will be adjusted accordingly.

L. (§ 3.3)	<u>Prepaid Rent:</u>	\$-0-
M. (§ 3.5)	<u>Security Deposit:</u>	\$-0-
N. (§ 4.1)	<u>Permitted Use:</u>	General office, research and development, light manufacturing, assembly and other uses incidental thereto.
O. (§ 5.2)	<u>Permitted Tenant's Alterations limit:</u>	\$25,000.00
P. (§9.1)	<u>Tenant's Liability Insurance Minimum:</u>	\$3,000,000.00
Q. (§ 1.3)	<u>Landlord's Address:</u>	Divco West Group, LLC 100 Park Center Plaza, Suite 425 San Jose, California 95113 Attn: Property Manager

1.15 **Law:** The term “**Law**” means any judicial decision, statute, constitution, ordinance, resolution, regulation, rule, administrative order, or other requirement of any municipal, county, state, federal or other government agency or authority having jurisdiction over the parties to this Lease or the Premises, or both, in effect either at the Effective Date or any time during the Lease Term, including, without limitation, any Hazardous Material Law (as defined in Section 7.2F) and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et. seq.* and any rules, regulations, restrictions, guidelines, requirements or publications promulgated or published pursuant thereto.

1.16 **Lease:** The term “**Lease**” means the Summary and all elements of this Lease identified in Section T of the Summary, all of which are attached hereto and incorporated herein by this reference.

1.17 **Lease Term:** The term “**Lease Term**” or “**Term**” means the term of this Lease which shall commence on the Commencement Date and continue for the period specified in Section J of the Summary.

1.18 **Lender:** The term “**Lender**” means any beneficiary, mortgagee, secured party, lessor, or other holder of any Security Instrument.

1.19 **Permitted Use:** The term “**Permitted Use**” means the use specified in Section N of the Summary.

1.20 **Premises:** The term “**Premises**” means that building area described in Section D of the Summary that is within the Building.

1.21 **Project:** The term “**Project**” means that real property and the improvements thereon which are specified in Section E of the Summary.

1.22 **Private Restrictions:** The term “**Private Restrictions**” means all recorded covenants, conditions and restrictions, private agreements, reciprocal easement agreements, and any other recorded instruments affecting the use of the Premises which (i) exist as of the Effective Date, or (ii) are recorded after the Effective Date and are approved by Tenant.

1.23 [intentionally omitted]

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1.24 **Scheduled Commencement Date:** The term “**Scheduled Commencement Date**” means the date specified in Section I of the Summary.

1.25 **Security Instrument:** The term “**Security Instrument**” means any underlying lease, mortgage or deed of trust which now or hereafter affects the Project, and any renewal, modification, consolidation, replacement or extension thereof.

1.26 **Summary:** The term “**Summary**” means the Summary of Basic Lease Terms executed by Landlord and Tenant that is part of this Lease.

1.27 **Tenant’s Alterations:** The term “**Tenant’s Alterations**” or “**Tenant’s Alteration**” or “**Tenant Alteration**” means all improvements, additions, alterations, and fixtures installed in the Premises by Tenant.

1.28 [intentionally omitted]

1.29 **Trade Fixtures:** The term “**Trade Fixtures**” means anything affixed to the Premises by Tenant at its expense for purposes of trade, manufacture, ornament or domestic use (except replacement of similar work or material originally installed by Landlord) which can be removed without material injury to the Premises unless such thing has, by the manner in which it is affixed, become an integral part of the Premises.

ARTICLE 2 DEMISE, CONSTRUCTION, AND ACCEPTANCE

2.1 **Demise of Premises:** Landlord hereby leases to Tenant, and Tenant leases from Landlord, for the Lease Term upon the terms and conditions of this Lease, the Premises, together with (i) the non-exclusive right to use Tenant’s Allocated Parking Stalls within the Common Area (subject to the limitations set forth in Section 4.5), and (ii) the non-exclusive right to use the Common Area for ingress to and egress from the Premises and for the purposes for which such areas have been designated. Landlord reserves the use of the exterior walls, the roof and the area beneath and above the Premises, together with the right to install, maintain, use, and replace ducts, wires, conduits and pipes leading through the Premises in locations which will not interfere with Tenant’s use of the Premises.

2.2 **Commencement Date:** The “**Commencement Date**” shall mean the later of (a) the date the “Tenant Improvements” and the “Exterior Work” have been “Substantially Completed” (as such terms are defined in Exhibit B attached hereto), and (b) October 1, 2003. The Scheduled Commencement Date is an estimate of the actual Commencement Date.

2.3 **Construction of Improvements:** Landlord shall construct the Tenant Improvements in accordance with the terms of Exhibit B.

2.4 **Delivery and Acceptance of Possession:** If Landlord is unable to deliver possession of the Premises to Tenant on or before the Scheduled Commencement Date for any reason whatsoever, then this Lease shall not be void or voidable except as provided in this paragraph, and Landlord shall not be liable to Tenant for any loss or damage resulting therefrom. If the delay in delivery is due to any Tenant Delay (as defined in Exhibit B), then Substantial Completion of the Tenant Improvements shall be deemed (for the purposes of calculating the Commencement Date) to be the date the Tenant Improvements would have been Substantially Completed but for such Tenant Delays. Notwithstanding the foregoing, if the Commencement Date does not occur within 90 days after the Scheduled Commencement Date, which date is not subject to extension due to Force Majeure Delays (as that term is defined in Exhibit B), then Tenant (if the delay was not due to a Tenant Delay), as its sole and exclusive remedy, shall have the right to terminate this Lease upon written notice to

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Landlord within ten (10) days after the earlier of (i) notice from Landlord that there will be a delay beyond said 90-day time period, or (ii) end of said time period.

Upon Substantial Completion of the Tenant Improvements, Landlord and Tenant shall together execute an acceptance agreement in the form attached as Exhibit C, appropriately completed. The failure of Landlord or Tenant to execute such acceptance agreement shall not delay the Commencement Date.

2.5 Early Occupancy: Tenant shall have access to the Premises prior to the Commencement Date to make arrangements for Tenant's move into the Premises and to install fixtures, supplies, inventory and other property. Tenant agrees that it shall not interfere with the progress of Landlord's work by such entry. During the course of any pre-term possession, all terms and conditions of this Lease shall apply, except for the payment of Rent and the start of the Commencement Date. If such access is interfering with the construction of the Tenant Improvements as determined by Landlord's general contractor, then Tenant agrees to discontinue the activities that is causing the interference or vacate the Premises.

ARTICLE 3 RENT

3.1 Base Monthly Rent: Commencing on the Commencement Date and continuing throughout the Lease Term, Tenant shall pay to Landlord the Base Monthly Rent set forth in Section K of the Summary.

3.2 Additional Rent: Commencing on the Commencement Date and continuing throughout the Lease Term, Tenant shall pay the following as additional rent (the "**Additional Rent**"): (i) any late charges or interest due Landlord pursuant to Section 3.4; (ii) Landlord's share of any Subrent received by Tenant upon certain assignments and sublettings as required by Section 14.1; (iii) any legal fees and costs due Landlord pursuant to Section 15.9; and (iv) any other charges due Landlord pursuant to this Lease. This Lease is intended to be a "gross lease," and all charges for common area costs, maintenance costs, insurance costs and real estate taxes are included in Base Monthly Rent, except as otherwise explicitly provided herein.

3.3 Payment of Rent: Prior to the first day of the thirteenth full month of the Lease Term, Tenant shall pay to Landlord the amount set forth in Section L of the Summary as prepayment of rent, for credit against the Base Monthly Rent due for the thirteenth month of the Lease Term. The term "**Rent**" or "**rent**" shall mean Base Monthly Rent and Additional Rent. All rent required to be paid in monthly installments shall be paid in advance on the first day of each calendar month during the Lease Term. All rent shall be paid in lawful money of the United States, without any abatement, deduction or offset whatsoever (except as specifically provided in Sections 10.1, 11.4 or 12.3), and without any prior demand therefor. Rent shall be paid to Landlord at its address set forth in Section Q of the Summary, or at such other place as Landlord may designate from time to time in writing. Tenant's obligation to pay Base Monthly shall be prorated at the commencement and expiration of the Lease Term.

3.4 Late Charge, Interest and Quarterly Payments:

(a) Late Charge. Tenant acknowledges that the late payment by Tenant of any installment of rent, or any other sum of money required to be paid by Tenant under this Lease, will cause Landlord to incur certain costs and expenses not contemplated under this Lease, the exact amount of such costs being extremely difficult and impractical to fix. Such costs and expenses will include, without limitation, attorneys' fees, administrative and collection costs, and processing and accounting expenses and other costs and expenses necessary and incidental thereto. If any Base Monthly Rent or Additional Rent is not received by Landlord from Tenant when due such payment is due, then upon three (3) day's advance notice to Tenant, Tenant shall immediately pay to Landlord a late charge equal to 10% of such delinquent rent as liquidated damages for Tenant's failure to make timely payment. In no event shall this provision for a late charge be deemed to grant to Tenant a grace period or extension of time within which to pay any rent or prevent Landlord from exercising

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any right or remedy available to Landlord upon Tenant's failure to pay any rent due under this Lease in a timely fashion, including any right to terminate this Lease pursuant to Section 13.2B.

(b) Interest. If any rent remains delinquent for a period in excess of five (5) days following written notice to Tenant, then, in addition to such late charge, Tenant shall pay to Landlord interest on any rent that is not paid when due at the Agreed Interest Rate following the date such amount became due until paid.

(c) [intentionally omitted]

3.5 Security Deposit: [intentionally omitted]

3.6 Electronic Payment. [intentionally omitted]

ARTICLE 4 USE OF PREMISES

4.1 Limitation on Use: Tenant shall use the Premises solely for the Permitted Use specified in Section N of the Summary. There shall not be any change in use without the prior written consent of Landlord which will not be unreasonably withheld. Tenant shall not do anything in or about the Premises which will (i) cause structural injury to the Building, or (ii) cause damage to any part of the Building except to the extent reasonably necessary for the installation of Tenant's Trade Fixtures and Tenant's Alterations, and then only in compliance with the applicable provisions of this Lease. Tenant shall not operate any equipment within the Premises which will (i) materially damage the Building or the Common Area, (ii) overload existing electrical systems or other mechanical equipment servicing the Building, (iii) impair the efficient operation of the sprinkler system or the heating, ventilating or air conditioning ("HVAC") equipment within or servicing the Building, or (iv) damage, overload or corrode the sanitary sewer system. Tenant shall not set any load on the floor in excess of the load limits for which such items are designed. Any dust, fumes, or waste products generated by Tenant's use of the Premises shall be contained and disposed so that they do not (i) create an unreasonable fire or health hazard, (ii) damage the Premises, or (iii) result in the violation of any Law. Except as approved by Landlord, Tenant shall not change the exterior of the Building or install any equipment or antennas on or make any penetrations of the exterior or roof of the Building. Tenant shall not commit any waste in or about the Premises, and Tenant shall keep the Premises in a neat, clean, attractive and orderly condition, free of any nuisances. If Landlord designates a standard window covering for use throughout the Building, Tenant shall use this standard window covering to cover all windows in the Premises. Tenant shall not conduct on any portion of the Premises or the Project any public or private auction, fire sale, going-out-of-business sale, distress sale or other liquidation sale.

4.2 Compliance with Regulations: Tenant shall not use the Premises in any manner which violates any Laws or Private Restrictions which affect the Premises. Tenant shall abide by and promptly observe and comply with all Laws and Private Restrictions. Tenant shall not use the Premises in any manner which will cause a cancellation of any insurance policy covering Tenant's Alterations or any improvements installed by Landlord at its expense or

which poses an unreasonable risk of damage or injury to the Premises. Tenant shall not sell, or permit to be kept, used, or sold in or about the Premises any article which is prohibited by the standard form of fire insurance policy. Tenant shall comply with all reasonable requirements of any insurance company, insurance underwriter, or Board of Fire Underwriters which are necessary to maintain the insurance coverage carried by either Landlord or Tenant pursuant to this Lease. Notwithstanding the foregoing or anything to the contrary contained in this Lease, Tenant shall not be responsible for compliance with any Laws where such compliance is not related specifically to Tenant's use and occupancy of the Premises, including without limitation the construction of any Tenant Alteration. For example, if any governmental authority should require any portion of the Project or the Premises to be structurally strengthened against earthquake, or should require the removal of Hazardous Materials from the Premises and such measures are imposed as a

general requirement applicable to all tenants rather than as a condition to Tenant's specific use or occupancy of the Premises, such work shall be performed by and at the sole cost of Landlord.

4.3 Outside Areas: No materials, supplies, tanks or containers, equipment, finished products or semi-finished products, raw materials, inoperable vehicles or articles of any nature shall be stored upon or permitted to remain outside of the Premises except in outside the Building which have been designed for such purpose by Landlord for such use by Tenant.

4.4 Signs: Tenant shall be entitled to have one sign identifying Tenant's name on the Building and on its name listed on the monument sign for the Building, provided each such sign is permitted and in conformity with all Laws and Private Restrictions then in effect and the design, size and quality of such signs are approved by Landlord, which approval will not be unreasonably withheld. Such signage shall be installed at the expense of Landlord as a Tenant Improvement pursuant to Exhibit B. At its expense, Tenant shall maintain such signs in good condition and repair and shall be obligated to remove the sign on the Building at the expiration or sooner termination of the Lease Term. Except as provided above, Tenant shall not be entitled to any other signage at the Building or Project.

4.5 Parking: Tenant is allocated and shall have the non-exclusive right to use not more than the number of Tenant's Allocated Parking Stalls contained within the Project described in Section H of the Summary for its use and the use of Tenant's Agents. Tenant shall not at any time use more parking spaces than the number so allocated to Tenant or park its vehicles or the vehicles of others in any portion of the Project not designated by Landlord as a non-exclusive parking area. If Landlord grants to any other tenant the exclusive right to use any particular parking space(s), Tenant shall not use such spaces. Landlord reserves the right, after having given Tenant reasonable notice, to have any vehicles owned by Tenant or Tenant's Agents utilizing parking spaces in excess of the parking spaces allowed for Tenant's use to be towed away at Tenant's cost. All trucks and delivery vehicles shall be (i) parked at the rear of the Building, (ii) loaded and unloaded in a manner which does not interfere with the businesses of other occupants of the Project, and (iii) permitted to remain on the Project only so long as is reasonably necessary to complete loading and unloading. In the event Landlord elects or is required by any Law to limit or control parking in the Project, whether by validation of parking tickets or any other method of assessment, Tenant agrees to participate in such validation or assessment program under such reasonable rules and regulations as are from time to time established by Landlord.

4.6 Rules and Regulations: Landlord may from time to time promulgate reasonable and nondiscriminatory rules and regulations applicable to all occupants of the Project for the care and orderly management of the Project and the safety of its tenants and invitees. Such rules and regulations shall be binding upon Tenant upon delivery of a copy thereof to Tenant, and Tenant agrees to abide by such rules and regulations. If there is a conflict between the rules and regulations and any of the provisions of this Lease, the provisions of this Lease shall prevail. Landlord shall not be responsible for the violation by any other tenant of the Project of any such rules and regulations; provided, however, that Landlord shall use its commercially reasonable efforts to require compliance by other tenants with such rules and regulations, but such efforts shall not require Landlord to terminate any lease or commence any litigation or arbitration proceeding.

ARTICLE 5 TRADE FIXTURES AND ALTERATIONS

5.1 Trade Fixtures: Throughout the Lease Term, Tenant may provide and install, and shall maintain in good condition, any Trade Fixtures required in the conduct of its business in the Premises, except to the extent (a) any Trade Fixture will use, generate, store or dispose of any Hazardous Material in which case the installation of such Trade Fixtures shall be in compliance with the provisions of Article 7, or (b) any Trade Fixture will constitute a Tenant Alteration, in which case it shall be subject to the requirements set forth below for the construction of a Tenant Alteration, including, without limitation, the prior written consent of Landlord, if required. All Trade Fixtures shall remain Tenant's property.

5.2 Tenant's Alterations: Construction by Tenant of a Tenant Alteration shall be governed by the following:

A. Consent Required. Tenant shall not construct any Tenant's Alterations or otherwise alter the Premises without Landlord's prior written approval, which will not be unreasonably withheld unless such Tenant Alteration affects areas outside of the Premises or the exterior of the Building or the structural parts of the Building, in which case Landlord may withhold its consent in its sole and absolute discretion. Notwithstanding the foregoing, Landlord's consent shall not be required for any Tenant Alteration to the interior of the Premises that complies with the following requirements: (a) is cosmetic in nature such as painting; or (b)(i) does not affect the roof or any area outside of the Premises; (ii) does not adversely affect the structural parts of the Building or electrical, plumbing, HVAC or mechanical systems in the Building or servicing the Premises, or the sprinkler or other life safety system; and (iii) costs less than the Permitted Tenant Alterations Limit specified in Section O of the Summary per work of improvement and in the aggregate for all of such Alterations during a calendar year (herein referred to as "Minor Alteration"). Tenant shall provide Landlord with prior written notice of any Minor Alteration that requires a building permit. In the event Landlord's approval for any Tenant's Alterations is required, Tenant shall not construct the Tenant Alteration until Landlord has approved in writing the plans and specifications therefor, and such Tenant's Alterations shall be constructed substantially in compliance with such approved plans and specifications. All Tenant's Alterations constructed by Tenant shall be constructed by a licensed contractor reasonably approved by Landlord in accordance with all Laws using new materials of good quality.

B. Other Requirements. Tenant shall not commence construction of any Tenant's Alterations until (i) all required governmental approvals and permits have been obtained, (ii) all requirements regarding insurance imposed by this Lease have been satisfied, (iii) Tenant has given Landlord at least five days' prior notice of its intention to commence such construction, and (iv) if reasonably requested by Landlord, Tenant has obtained contingent

liability and broad form builders' risk insurance in an amount reasonably satisfactory to Landlord if there are any perils relating to the proposed construction not covered by insurance carried pursuant to Article 9.

C. Restoration. All Tenant's Alterations shall remain the property of Tenant during the Lease Term. At the expiration or sooner termination of the Lease Term, all Tenant's Alterations shall be surrendered to Landlord as part of the realty and shall then become Landlord's property, and Landlord shall have no obligation to reimburse Tenant for all or any portion of the value or cost thereof; provided, however, that if Landlord requires Tenant to remove any Tenant's Alterations in accordance with the provisions of this Section, Tenant shall so remove such Tenant's Alterations prior to the expiration or sooner termination of the Lease Term. Notwithstanding the foregoing, Tenant shall not be obligated to remove any Tenant's Alterations with respect to which the following is true: (i) Tenant was required, or elected, to obtain the approval of Landlord to the installation of the Leasehold Improvement in question; (ii) at the time Tenant requested Landlord's approval, Tenant requested of Landlord in writing that Landlord inform Tenant of whether or not Landlord would require Tenant to remove such Tenant Alteration at the expiration of the Lease Term; and (iii) at the time Landlord granted its approval, it did not inform Tenant in writing that it would require Tenant to remove such Leasehold Improvement at the expiration of the Lease Term.

5.3 Alterations Required by Law: Tenant shall make any alteration, addition or change of any sort to the Premises that is required by any Law because of (i) Tenant's particular use or change of use of the Premises; (ii) Tenant's application for any permit or governmental approval; or (iii) Tenant's construction or installation of any Tenant's Alterations or Trade Fixtures. Any other alteration, addition, or change required by Law which is not the responsibility of Tenant pursuant to the foregoing shall be made by Landlord.

5.4 [intentionally omitted]

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5.5 Mechanic's Liens: Tenant shall keep the Project free from any mechanics' liens caused by Tenant or its Agents and shall pay when due all bills arising out of any work performed, materials furnished, or obligations incurred by Tenant or Tenant's Agents relating to the Project. If any such claim of lien is recorded, Tenant shall bond against or discharge the same within 10 business days after notice from Landlord, but in any event prior to the time Landlord's interest may be adversely effected. Should any lien be filed against the Project or any action be commenced affecting title to the Project, the party receiving notice of such lien or action shall immediately give the other party written notice thereof.

5.6 Taxes on Tenant's Property: Tenant shall pay before delinquency any and all taxes, assessments, license fees and public charges levied, assessed or imposed against Tenant's estate in this Lease or the property of Tenant situated within the Premises which become due during the Lease Term. If any tax or other charge is assessed by any governmental agency because of the execution of this Lease, such tax shall be paid by Landlord. On demand by Landlord, Tenant shall furnish Landlord with satisfactory evidence of these payments.

ARTICLE 6 REPAIR AND MAINTENANCE

6.1 Tenant's Obligation to Maintain: Except as otherwise provided in Section 6.2, Section 11.1, and Section 12.3, Tenant shall be responsible for the following during the Lease Term:

A. General. Except for those items required to be maintained by Landlord, Tenant shall clean and maintain in good order, condition, and repair and replace when necessary the Premises and every part thereof, through regular inspections and servicing, including, but not limited to: (i) all plumbing and sewage facilities within the Premises (including all sinks, toilets, faucets and drains), and all ducts, pipes, vents or other parts of the HVAC or plumbing system within the Premises; (ii) all fixtures, interior walls, floors, carpets and ceilings; (iii) all windows, doors, entrances, plate glass, showcases and skylights, if any, (including cleaning both interior and exterior surfaces); (iv) all electrical facilities and all equipment (including all lighting fixtures, lamps, bulbs, tubes, fans, vents, exhaust equipment and systems) within the Premises; and (v) any automatic fire extinguisher equipment in the Premises.

B. Utilities and Glass. With respect to utility facilities serving the Premises (including electrical wiring and conduits, gas lines, water pipes, and plumbing and sewage fixtures and pipes), Tenant shall be responsible for the maintenance and repair of any such facilities which serve only the Premises, including all such facilities that are within the walls or floor, or on the roof of the Premises, and any part of such facility that is not within the Premises, but only up to the point where such facilities enter the Premises.

C. Windows. Tenant shall replace any damaged or broken glass in the Premises (including all interior and exterior doors and windows) with glass of the same kind, size and quality. Tenant shall repair any damage to the Premises (including exterior doors and windows) caused by vandalism or any unauthorized entry. Tenant shall maintain continuously throughout the Lease Term a service contract for the washing of all windows (both interior and exterior surfaces) in the Premises, which contract provides for the periodic washing of all such windows as necessary to maintain the appearance of the Premises in good condition and as is customary for comparable properties in the area during the Lease Term. Tenant shall furnish Landlord with copies of all such service contracts.

D. HVAC. At its expense, Tenant shall (i) maintain and repair (including replacement of filters, fans and other minor equipment that requires replacement as part of the normal repair and maintenance) all HVAC equipment which services only the Premises, and shall keep the same in good condition through regular inspection and servicing, and (ii) maintain continuously throughout the Lease Term a service contract for the maintenance of all such HVAC equipment with a licensed HVAC repair and maintenance contractor

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approved by Landlord, which contract provides for the periodic inspection and servicing of the HVAC equipment at least once every 3 months during the Lease Term. Should any heat pump, condenser or other major component of the HVAC unit(s) serving the Premises require replacement during the Term of this Lease, such replacement shall be done by Landlord, and Tenant shall pay only its pro rata share of the cost, based on the anticipated life of the replacement equipment and the remaining time remaining on the Lease Term. Tenant's payments shall be amortized over the remaining Lease Term. Notwithstanding the foregoing, Landlord may elect at any time to assume responsibility for the maintenance, repair and replacement of such HVAC equipment which serves only the Premises, and the cost thereof shall be paid by Tenant to Landlord within 30 days after request. Tenant shall furnish Landlord with copies of all such service contracts..

E. Standards. All repairs and replacements required of Tenant shall be promptly made with new materials of like kind and quality. If the work affects the structural parts of the Building or if the estimated cost of any item of repair or replacement is in excess of the Permitted Tenant's Alterations Limit, then Tenant shall first obtain Landlord's written approval of the scope of the work, plans therefor, materials to be used, and the contractor.

F. Structural. Notwithstanding the foregoing, Tenant shall not be responsible for repairs and maintenance to the structural (which for purposes hereof shall mean the foundation, roof structure and load bearing walls) or the roof membrane.

G. Damage by Tenant. Notwithstanding anything to the contrary in this Lease, Tenant shall pay for any work and materials required to be done by Landlord under this Lease due to damage caused by the negligence, willful misconduct or misuse by Tenant or its Agents which is not otherwise covered by insurance proceeds. If Tenant or any of its Agents causes a casualty causing damage to any part of the Building, Common Area or Project, then Tenant shall pay to Landlord the amount of the applicable deductible under Landlord's property damage insurance, not to exceed \$10,000.00 in any one case regardless of the amount of the deductible.

6.2 Landlord's Obligations

A. Landlord's Warranties: Notwithstanding anything to the contrary in this Lease, Landlord warrants that on the Commencement Date, (a) the Premises and Building shall comply with all Laws and Private Restrictions then applicable to the Premises, Common Area and the Building, and (b) the Premises, including the improvements and equipment therein, shall be in good working order, condition, and repair. In the event of any breach of any of the foregoing warranties, Landlord shall promptly rectify the same at its sole cost and expense.

Landlord represents and warrants to its actual knowledge, without independent investigation other than a review of its property files for the Building, that as of the date of this Lease no Hazardous Materials are present at the Building in violation of any applicable Hazardous Materials Laws.

B. Landlord's Obligation to Maintain: Landlord shall repair, maintain, replace (when necessary) and operate the Common Area and repair, maintain and replace (when necessary) the roof, exterior and structural parts of the Building and the Common Area so that the same are kept in good order and repair, and shall also be responsible for any latent defects in the HVAC, plumbing and electrical systems serving the Premises. If there is central HVAC or other building service equipment and/or utility facilities serving portions of the Common Area and/or both the Premises and other parts of the Building, Landlord shall maintain and operate (and replace when necessary) such equipment. Landlord shall not be responsible for repairs required by an accident, fire or other peril or for damage caused to any part of the Project by any act or omission of Tenant or Tenant's Agents except as otherwise required by Article 11. Landlord may engage contractors of its choice

to perform the obligations required of it by this Article, and the necessity of any expenditure to perform such obligations shall be at the sole discretion of Landlord.

6.3 Control of Common Area: Landlord shall at all times have exclusive control of the Common Area. Landlord shall have the right, without the same constituting an actual or constructive eviction and without entitling Tenant to any abatement of rent, to: (i) close any part of the Common Area to whatever extent required in the opinion of Landlord's counsel to prevent a dedication thereof or the accrual of any prescriptive rights therein; (ii) temporarily close the Common Area to perform maintenance or for any other reason deemed sufficient by Landlord; (iii) change the shape, size, location and extent of the Common Area; (iv) eliminate from or add to the Project any land or improvement, including multi-deck parking structures; (v) make changes to the Common Area including, without limitation, changes in the location of driveways, entrances, passageways, doors and doorways, elevators, stairs, restrooms, exits, parking spaces, parking areas, sidewalks or the direction of the flow of traffic and the site of the Common Area; (vi) remove unauthorized persons from the Project; and/or (vii) change the name or address of the Building or Project. Tenant shall keep the Common Area clear of all obstructions created or permitted by Tenant. In exercising any such rights regarding the Common Area, (i) Landlord shall make a reasonable effort to minimize any disruption to Tenant's business, and (ii) Landlord shall not exercise its rights to control the Common Area in a manner that would unreasonably interfere with Tenant's use of the Premises. Landlord shall have no obligation to provide guard services or other security measures for the benefit of the Project. Tenant assumes all responsibility for the protection of Tenant and Tenant's Agents from acts of third parties; provided, however, that nothing contained herein shall prevent Landlord, at its sole option, from providing security measures for the Project.

ARTICLE 7 WASTE DISPOSAL AND UTILITIES

7.1 Waste Disposal: Tenant shall store its waste either inside the Premises or within outside trash enclosures provided by the garbage collection company or Tenant. All entrances to such outside trash enclosures shall be kept closed, and waste shall be stored in such manner as not to be visible from the exterior of such outside enclosures. Tenant shall cause all of its waste to be regularly removed from the Premises at Tenant's sole cost. Tenant shall keep all fire corridors and mechanical equipment rooms in the Premises free and clear of all obstructions at all times.

7.2 Hazardous Materials: Landlord and Tenant agree as follows with respect to the existence or use of Hazardous Materials on the Project:

A. Hazardous Materials Disclosure Certificate. Prior to executing this Lease, Tenant has delivered to Landlord Tenant's executed initial Hazardous Materials Disclosure Certificate, in the form attached hereto as Exhibit D (the "**Initial Hazardous Materials Certificate**"). Tenant covenants, represents and warrants to Landlord that the information in the Initial Hazardous Materials Certificate is true and correct and accurately describes the use(s) of Hazardous Materials which will be made and/or used on the Premises by Tenant. Tenant shall, commencing with the date which is one year from the Commencement Date and continuing every year thereafter for the Term of this Lease, deliver to Landlord, an executed and updated Hazardous Materials Disclosure Certificate, substantially in the form attached hereto as Exhibit D (the "**Annual Hazardous Materials Certificate**") describing Tenant's then present use of Hazardous Materials on the Premises.

B. Hazardous Material Usage. Tenant shall not be entitled to use, store, generate, transport or dispose of any Hazardous Materials (herein referred to as "**Hazardous Materials Usage**") on, in, or about any portion of the Premises and the Project other than the materials listed in the Hazardous Materials Certificate, without, in each instance, obtaining Landlord's prior written consent thereto in its reasonable discretion. If Landlord, in its reasonable discretion, consents in writing to any such Hazardous Material Usage, then Tenant shall be permitted to use those Hazardous Materials as expressly approved by Landlord in writing.

Any such Hazardous Materials Usage may only be to the extent of the quantities of Hazardous Materials as specified in the then applicable Hazardous Material Disclosure Certificate or as expressly approved by Landlord. Any Hazardous Material Usage of Hazardous Materials by Tenant and Tenant's Agents after the Effective Date in or about the Project shall strictly comply with all applicable laws, including all Hazardous Materials Laws now or hereinafter enacted. Tenant agrees that any changes to the type and/or quantities of Hazardous Materials specified in the most recent approved Hazardous Material Disclosure Certificate may be implemented only with the prior written consent of Landlord, which consent may be given or withheld in Landlord's reasonable discretion. Tenant shall not be entitled nor permitted to install any tanks under, on or about the Premises or Project for the storage of Hazardous Materials without the express written consent of Landlord, which may be given or withheld in Landlord's sole and absolute discretion.

C. Tests and Inspections. Subject to Section 15.1, Landlord shall have the right at all times during the Term of this Lease to (i) inspect the Premises, (ii) conduct tests and investigations to determine whether Tenant is in compliance with the provisions of this Section 7.2 or to determine if Hazardous Materials are present in, on or about the Premises, Building and Common Area, and (iii) request lists of all Hazardous Materials used, stored or otherwise located on, under or about any portion of the Premises and/or the Common Areas by Tenant. All such tests shall be conducted in a commercially reasonable manner, except in an emergency, so as to minimize any unreasonable disruption of Tenant's use and occupancy of the Premises. The cost of all such inspections, tests and investigations shall be borne by Landlord, but shall be subject to indemnification by Tenant pursuant to Section 7.2E below, if applicable. The aforementioned rights granted herein to Landlord and its representatives shall not create (a) a duty on Landlord's part to inspect, test, investigate, monitor or otherwise observe the Premises or the activities of Tenant and Tenant's Representatives with respect to Hazardous Materials, including without limitation, Tenant's operation, use and any remediation related thereto, or (b) liability on the part of Landlord and its representatives for Tenant's use, storage, disposal or remediation of Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

D. Notice. Tenant shall give to Landlord immediate verbal and follow-up written notice of any spills, releases, discharges, disposals, emissions, migrations, removals or transportation of Hazardous Materials on, under or about any portion of the Premises, Common Areas or Project by Tenant; provided that Tenant has actual knowledge of such event(s). Tenant, at its sole cost and expense, covenants and warrants to promptly investigate, clean up, remove, restore and otherwise remediate (including, without limitation, preparation of any feasibility studies or reports and the performance of any and all closures) any spill, release, discharge, disposal, emission, migration or transportation or other Hazardous Material Usage of Hazardous Materials arising from or related to the acts or omissions of Tenant or Tenant's Agents such that the affected portions of the Project and any adjacent property are returned to the condition existing prior to the appearance of such Hazardous Materials, if commercially feasible, but in any event in compliance with all applicable Laws. Any such work shall be subject to the prior written approval of Landlord in its good faith discretion. Tenant, at its sole cost and expense, shall conduct and perform, or cause to be conducted and performed, all closures as required by any Hazardous Materials Laws or any agencies or other governmental authorities having jurisdiction thereof relating to Tenant's or its Agent's use of the Premises prior to the expiration of the Lease Term. If Tenant fails to so promptly investigate, clean up, remove, restore, provide closure or otherwise so remediate, Landlord may, but without obligation to do so, take any and all steps necessary to rectify the same and Tenant shall promptly reimburse Landlord, upon demand, for all costs and expenses to Landlord of performing investigation, clean up, removal, restoration, closure and remediation work. All such work undertaken by Tenant, as required herein, shall be performed in such a manner so as to enable Landlord to make full economic use of the Premises and the other portions of the Project after the satisfactory completion of such work.

E. Indemnity.

(1) Tenant shall indemnify, hold harmless and defend Landlord and Landlord's Agents and mortgagees and other lien holders ("Landlord's Parties"), from and against any and all "Losses" (hereinafter defined) arising from or related to: (a) any violation by Tenant or any of Tenant's Agents of any of Hazardous Materials Laws; (b) any breach of the provisions of this Section 7.2 or any subsection thereof by Tenant or any of Tenant's Agents; or (c) any Hazardous Materials Usage by Tenant or its Agents on, about or from the Premises of any Hazardous Material approved by Landlord under this Lease. The term "Losses" shall mean all claims, demands, expenses, actions, judgments, damages (whether consequential, direct or indirect), penalties, fines, liabilities, losses of every kind and nature (including, without limitation, property damage, diminution in value of Landlord's interest in the Premises or the Project, damages for the loss or restriction on use of any space or amenity within the Building or the Project, damages arising from any adverse impact on marketing space in the Project, sums paid in settlement of claims and any costs and expenses associated with injury, illness or death to or of any person), suits, administrative proceedings, costs and fees, including, but not limited to, attorneys' and consultants' fees and expenses, and the costs of cleanup, remediation, removal and restoration, that are in any way related to any matter covered by the foregoing indemnity. Tenant's indemnity under this Section 7.2 will not be applicable for any Losses due to (i) any Hazardous Materials Usage by Landlord or Landlord Parties, or (ii) any Hazardous Materials Usage by any other party other than Tenant or its Agents, or (iii) any Hazardous Materials existing as of the Commencement Date.

(2) Landlord agrees that it shall not release any Hazardous Materials in the Building or Common Area in violation of the applicable Hazardous Materials Laws. If any Hazardous Materials are released in the Building or Common Area in violation of the Hazardous Materials Laws, other than by Tenant or any of its Agents, and such Hazardous Materials are required to be remediated under the applicable Hazardous Materials Law by a governmental authority having jurisdiction over the subject matter at the Building, then Landlord agrees to remediate such Hazardous Materials, at its sole cost and expense, to the extent required under the Hazardous Materials Laws and otherwise in a manner determined by Landlord in its reasonable good faith discretion and in a manner that minimizes, to the extent reasonably possible, interference with Tenant's use of the Premises. Landlord shall indemnify, defend and hold harmless Tenant and Tenant's Agents (other than invitees of Tenant) from and against any and all Losses (other than lost profits) arising out of (a) any violation by Landlord or its Agents of any Hazardous Materials Laws at the Building or Common Area, or (b) any Hazardous Materials on, under or about the Premises or the Building existing on the Commencement Date; or (c) any Hazardous Materials Usage by Landlord or any Hazardous Materials Usage in violation of applicable Hazardous Materials Law by any other party other than Tenant or its Agents, on, about or from the Premises of any Hazardous Material. Landlord's indemnity under this Section 7.2E(2) will not be applicable for any Losses due to any Hazardous Materials Usage by Tenant or its Agents. The provisions of this Section 7.2E(2) that require the Landlord to remediate and indemnify will not be applicable to any Lender under any Security Instrument now or hereafter encumbering any portion of the Building or Complex, even if such beneficiary or mortgage acquires title to the Building or Complex through a trustee sale, foreclosure or deed in lieu of foreclosure.

F. Hazardous Material. As used herein, the term “**Hazardous Material**,” means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government or under any Hazardous Material Law. The term “Hazardous Material,” includes, without limitation, petroleum products, asbestos, PCB’s, and any material or substance which is (i) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ii) defined as a “hazardous waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. (42 U.S.C. 6903), or (iii) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response; Compensation and Liability Act, 42 U.S.C. 9601 et seq. (42 U.S.C. 9601). As used herein, the term “**Hazardous Material Law**” shall mean any statute, law, ordinance, or regulation of any governmental body or agency (including the U.S. Environmental Protection Agency, the

California Regional Water Quality Control Board, and the California Department of Health Services) which regulates the use, storage, release or disposal of any Hazardous Material.

G. Survival. The obligations of Landlord and Tenant under this Section 7.2 shall survive the expiration or earlier termination of the Lease Term. The rights and obligations of Landlord and Tenant with respect to issues relating to Hazardous Materials are exclusively established by this Section 7.2. In the event of any inconsistency between any other part of this Lease and this Section 7.2, the terms of this Section 7.2 shall control.

7.3 Utilities: Tenant shall promptly pay, as the same become due, all charges for water, gas, electricity, telephone, sewer service, waste pick-up and any other utilities, materials or services furnished directly to or used by Tenant on or about the Premises during the Lease Term, including, without limitation, (i) meter, use and/or connection fees, hook-up fees, or standby fee (excluding any connection fees or hook-up fees which relate to making the existing electrical, gas, and water service available to the Premises as of the Commencement Date), and (ii) penalties for discontinued or interrupted service.

7.4 Compliance with Governmental Regulations: Landlord and Tenant shall comply with all rules, regulations and requirements promulgated by national, state or local governmental agencies or utility suppliers concerning the use of utility services, including any rationing, limitation or other control. Tenant shall not be entitled to terminate this Lease nor to any abatement in rent by reason of such compliance.

ARTICLE 8 COMMON OPERATING EXPENSES

8.1 Tenant’s Supplement Taxes. Notwithstanding anything to the contrary, from and after the Commencement Date, Tenant shall pay for increases in real estate taxes (including, without limitation, all assessments, levies and other charges included in real estate taxes by any governmental authority) due to the construction or installation of any Trade Fixtures or Tenant Alteration by Tenant or its assignee, sublessee, concessionaire, or transferee under a Transfer (“**Tenant’s Activities**”), but in any event not including due to the construction of the initial Tenant Improvements. Under applicable law in California, the construction of alterations may result in a supplemental tax assessment and an increase in real estate taxes. If there is such an increase in real estate taxes due to any of Tenant’s Activities, then Tenant shall pay as additional rent, the cost of such increase as determined by the taxing authority. Landlord will not be able to advise Tenant if any alteration will trigger a supplemental tax assessment since that determination will be made by the local assessor’s office. Accordingly, Tenant shall still be responsible for such increase in real estate taxes as a result of any of Tenant’s Activities even though Landlord may have provided its consent or approval for the construction of such alteration. Such payment shall be made by Tenant to Landlord within thirty (30) days prior to the date such amounts are due to the taxing authority, upon request by Landlord.

ARTICLE 9 INSURANCE

9.1 Tenant’s Insurance: Tenant shall maintain insurance complying with all of the following:

A. Types. Tenant shall procure, pay for and keep in full force and effect the following:

(1) Commercial general liability insurance, including property damage, against liability for personal injury, bodily injury, death and damage to property occurring in or about, or resulting from an occurrence in or about, the Premises with combined single limit coverage of not less than the amount of Tenant’s Liability Insurance Minimum specified in Section P of the Summary, which insurance shall contain a “contractual liability” endorsement insuring Tenant’s performance of Tenant’s obligation to indemnify Landlord contained in Section 10.3;

(2) Fire and property damage insurance in so-called “all risk” form insuring Tenant’s Trade Fixtures and Tenant’s Alterations for the full actual replacement cost thereof;

(3) Business interruption insurance with limits of liability representing at least approximately six months of income, business auto liability covering owned, non-owned and hired vehicles with a limit of not less than \$1,000,000 per accident, insurance protecting against liability under workers’ compensation laws with limits at least as required by statute, insurance for all plate glass in the Premises, and such other insurance that is either (i) required by any Lender, or (ii) reasonably required by Landlord and customarily carried by tenants of similar property in similar businesses.

B. Requirements. Where applicable and required by Landlord, each policy of insurance required to be carried by Tenant pursuant to this Section 9.1: (i) shall name Landlord and such other parties in interest as Landlord reasonably designates as additional insured; (ii) shall be primary insurance which provides that the insurer shall be liable for the full amount of the loss up to and including the total amount of liability set forth in the declarations without the right of contribution from any other insurance coverage of Landlord; (iii) issued by a carrier in each case having a rating in “Best’s Insurance Reports” as issued from time to time of not less than A-, VII; (iv) shall provide that such policy shall not be subject to cancellation except after at least 30 days prior written notice to Landlord so long as such provision of 30 days notice is reasonably obtainable, but in any event not less than 10 days prior written notice; (v) shall not have a “deductible” in excess of a deductible that Tenant has at other comparable leased properties or otherwise consistent with its normal risk management practice; (vi) shall contain a cross liability endorsement; and (vii) shall contain a “severability” clause. If Tenant has in full force and effect a blanket policy of liability insurance with the same coverage for the Premises as described above, as well as other coverage of other premises and properties of Tenant, or in which Tenant has some interest, such blanket insurance shall satisfy the requirements of this Section 9.1.

C. Evidence. A copy of each paid-up policy evidencing the insurance required to be carried by Tenant pursuant to this Section 9.1 (appropriately authenticated by the insurer) or a certificate of the insurer, certifying that such policy has been issued, providing the coverage required by this Section 9.1, and containing the provisions specified herein, shall be delivered to Landlord prior to the time Tenant or any of its Agents enters the Premises and upon renewal of such policies, but not less than 5 days prior to the expiration of the term of such coverage. Landlord may, at any time, and from time to time, inspect and/or copy any and all insurance policies required to be procured by Tenant pursuant to this Section 9.1. If any Lender or insurance advisor reasonably determines at any time that the amount of coverage required for any policy of insurance Tenant is to obtain pursuant to this Section 9.1 is not adequate, then Tenant shall increase such coverage for such insurance to such amount as such Lender or insurance advisor reasonably deems adequate, not to exceed the level of coverage for such insurance commonly carried by comparable businesses similarly situated.

9.2 Landlord's Insurance: Landlord shall have the following obligations and options regarding insurance:

A. Property Damage. Landlord shall maintain a policy or policies of fire and property damage insurance in so-called "all risk" form insuring Landlord (and such others as Landlord may designate) against loss of rents for a period of not less than 12 months and from physical damage to the Project with coverage of not less than the full replacement cost thereof. Landlord may so insure the Project separately, or may insure the Project with other property owned by Landlord which Landlord elects to insure together under the same policy or policies. Landlord shall have the right, but not the obligation, in its sole and absolute discretion, to obtain insurance for such additional perils as Landlord deems appropriate, including, without limitation, coverage for damage by earthquake and/or flood. All such coverage shall contain "deductibles" which Landlord deems appropriate, which in the case of earthquake and flood insurance, may be up to 10% of the replacement value of the property insured or such higher amount as is then commercially reasonable.

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Landlord shall not be required to cause such insurance to cover any Trade Fixtures or Tenant's Alterations of Tenant.

B. Other. Landlord shall maintain a policy or policies of commercial general liability insurance insuring Landlord (and such others as are designated by Landlord) against liability for personal injury, bodily injury, death and damage to property occurring or resulting from an occurrence in, on or about the Project, with combined single limit coverage in the amount of \$3,000,000.

C. Tenant's Obligation to Reimburse: If Landlord's insurance rates for the Building are increased at any time during the Lease Term as a result of the nature of Tenant's use of the Premises, Tenant shall reimburse Landlord for the full amount of such increase immediately upon receipt of a bill from Landlord therefor.

9.3 Mutual Waiver of Subrogation: Landlord and Tenant hereby mutually waive their respective rights for recovery against each other for any loss of or damage to the property of either party, where such loss or damage is insured by any insurance policy required to be maintained by this Lease or otherwise in force at the time of such loss or damage. Each party shall obtain any special endorsements, if required by the insurer, whereby the insurer waives its right of subrogation against the other party hereto. The portions of this Section shall not apply in those instances in which a waiver of subrogation would cause either party's insurance coverage to be voided or otherwise made uncollectible.

ARTICLE 10 LIMITATION ON LANDLORD'S LIABILITY AND INDEMNITY

10.1 Limitation on Landlord's Liability: Landlord shall not be liable to Tenant, nor shall Tenant be entitled to terminate this Lease or to any abatement of rent (except as expressly provided otherwise herein), for any injury to Tenant or Tenant's Agents, damage to the property of Tenant or Tenant's Agents, or loss to Tenant's business resulting from any cause, including without limitation any: (i) failure, interruption or installation of any HVAC or other utility system or service; (ii) failure to furnish or delay in furnishing any utilities or services when such failure or delay is caused by fire or other peril, the elements, labor disturbances of any character, or any other accidents or other conditions beyond the reasonable control of Landlord; (iii) limitation, curtailment, rationing or restriction on the use of water or electricity, gas or any other form of energy or any services or utility serving the Project; (iv) vandalism or forcible entry by unauthorized persons or the criminal act of any person. Notwithstanding the foregoing but subject to Section 9.3, Landlord shall be liable for any such injury, damage or loss for matters occurring under clauses (i) or (ii) above which is proximately caused by Landlord's willful misconduct or negligence or breach by Landlord of its obligations under this Lease. Notwithstanding the foregoing, if Tenant's use or occupancy of the Premises is substantially impaired by the failure, interruption or installation of any HVAC or other utility system or service or maintenance obligation of Landlord for a period of more than 30 days, Base Monthly Rent payable by Tenant hereunder shall abate until such substantial impairment ceases.

10.2 Limitation on Tenant's Recourse: If Landlord is a corporation, limited liability company, trust, partnership, joint venture, unincorporated association or other form of business entity: (i) the obligations of Landlord shall not constitute personal obligations of the officers, directors, trustees, partners, joint venturers, members, owners, stockholders, or other principals or representatives of such business entity; and (ii) Tenant shall not have recourse to the assets of such officers, directors, trustees, partners, joint venturers, members, owners, stockholders, principals or representatives except to the extent of their interest in the Project. Tenant shall have recourse only to the interest of Landlord in the Project for the satisfaction of the obligations of Landlord and shall not have recourse to any other assets of Landlord for the satisfaction of such obligations.

10.3 Indemnification of Landlord: Tenant shall hold harmless, indemnify and defend Landlord, and its employees, agents and contractors, with competent counsel reasonably satisfactory to Landlord (and

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Landlord agrees to accept counsel that any insurer requires be used), from all liability, penalties, losses, damages, costs, expenses, causes of action, claims and/or judgments arising by reason of any death, bodily injury, personal injury or property damage resulting from (i) any cause or causes whatsoever (other than the willful misconduct or negligence of Landlord or the breach by Landlord of any of its obligations under this Lease) occurring in or about or resulting from an occurrence in or about the Premises during the Lease Term, or (ii) an Event of Tenant's Default. The provisions of this Section 10.3 shall survive the expiration or sooner termination of this Lease.

ARTICLE 11 DAMAGE TO PREMISES

11.1 Landlord's Duty to Restore: If the Premises are damaged by any peril after the Effective Date, Landlord shall restore the Premises unless the Lease is terminated by Landlord pursuant to Section 11.2 or by Tenant pursuant to Section 11.3. All insurance proceeds available from the fire and property damage insurance carried by Landlord pursuant to Section 9.2 shall be paid to and become the property of Landlord. If this Lease is terminated pursuant to either Section 11.2 or Section 11.3, then all insurance proceeds available from insurance carried by Tenant which covers loss to property that is Landlord's property or would become Landlord's property on termination of this Lease shall be paid to and become the property of Landlord. If this Lease is not so terminated, then upon receipt of the insurance proceeds (if the loss is covered by insurance) and the issuance of all necessary governmental permits, Landlord shall commence and diligently prosecute to completion the restoration of the Premises, to the extent then allowed by Law, to substantially the same condition in which the Premises were immediately prior to such damage. If Landlord is not able to commence restoration of the Premises by 120 days following the date of destruction, either because of a failure to receive insurance proceeds or necessary permits, Tenant shall have the right to terminate this Lease in accordance with the provisions of 11.3. Landlord's obligation to restore shall be limited to the Premises and interior improvements constructed by Landlord as they existed as of the Commencement Date, excluding any Tenant's Alterations, Trade Fixtures and/or personal property constructed or installed by Tenant in the Premises. Tenant shall be responsible for any necessary repair of Tenant's Alterations and/or Trade Fixtures installed by Tenant.

11.2 Landlord's Right to Terminate: Landlord shall have the right to terminate this Lease in the event any of the following occurs, which right may be exercised only by delivery to Tenant of a written notice of election to terminate within 30 days after the date of such damage:

A. Damage From Insured Peril. Either the Premises or the Building is damaged by an Insured Peril to such an extent that the estimated cost to restore exceeds 66% of the then actual replacement cost thereof;

B. Damage From Uninsured Peril. Either the Premises or the Building is damaged by an Uninsured Peril to such an extent that the estimated cost to restore exceeds 10% of the then actual replacement cost thereof and Landlord does not commence restoration of the Building within 120 days from the date of the casualty; provided, however, that Landlord may not terminate this Lease pursuant to this Section 11.2B if one or more tenants of the Project agree in writing to pay the amount by which the cost to restore the damage exceeds such amount and subsequently deposit such amount with Landlord within 30 days after Landlord has notified Tenant of its election to terminate this Lease;

C. Damage Near End of Term. The Premises are damaged by any peril within 12 months of the last day of the Lease Term to such an extent that the estimated cost to restore equals or exceeds an amount equal to six times the Base Monthly Rent then due; provided, however, that Landlord may not terminate this Lease pursuant to this Section 11.2C if Tenant, at the time of such damage, has a then valid express written option to extend the Lease Term and Tenant exercises such option to extend the Lease Term, after notice from Landlord, within 15 days following the date of such damage; or

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D. Restrictions on Restoration. Either the Premises or the Building is damaged by any peril and, because of the Laws then in force, (i) cannot be restored at reasonable cost to substantially the same condition in which it was prior to such damage, or (ii) cannot be used for the same use being made thereof before such damage if restored as required by this Article.

E. Defined Terms. As used herein, the following terms shall have the following meanings: (i) the term "**Insured Peril**" shall mean a peril required to be insured against pursuant to the terms of this Lease or actually insured against by Landlord, pursuant to which the insurance proceeds are sufficient to restore, except for the deductible in the under the applicable property damage policy and except for the deductible of not more than 10% of the replacement cost of the Building in a policy for damage by earthquake; and (ii) the term "**Uninsured Peril**" shall mean any peril which is not an Insured Peril. Notwithstanding the foregoing, if the "deductible" for earthquake or flood insurance exceeds 10% of the replacement cost of the improvements insured, such peril shall be deemed an "Uninsured Peril" affording Landlord the right to terminate under Section 11.2B, unless Landlord proceeds with restoration of the Building within 120 days after the date of the damage by earthquake.

11.3 Tenant's Right to Terminate: If the Premises are damaged by any peril and Landlord does not elect to terminate this Lease or is not entitled to terminate this Lease pursuant to Section 11.2, then as soon as reasonably practicable, Landlord shall furnish Tenant with the written opinion of Landlord's architect or construction consultant as to when the restoration work required of Landlord may be completed. Tenant shall have the right to terminate this Lease in the event any of the following occurs, which right may be exercised only by delivery to Landlord of a written notice of election to terminate within 10 days after Tenant receives from Landlord the estimate of the time needed to complete such restoration.

A. Major Damage. The Premises are damaged by any peril and, in the reasonable opinion of Landlord's architect or construction consultant, the restoration of the Premises cannot be substantially completed within 120 days after the date of such damage; or

B. Damage Near End of Term. The Premises are damaged by any peril within 12 months of the last day of the Lease Term and, in the reasonable opinion of Landlord's architect or construction consultant, the restoration of the Premises cannot be substantially completed within 60 days after the date of such damage.

11.4 Abatement of Rent: In the event of damage to the Premises which does not result in the termination of this Lease, the Base Monthly Rent and the Additional Rent shall be temporarily abated from the date of damage until restoration in proportion to the degree to which Tenant's use of the Premises is impaired by such damage. Tenant shall not be entitled to any compensation or damages from Landlord for loss of Tenant's business or property or for any inconvenience or annoyance caused by such damage or restoration except as otherwise provided in this Lease. Tenant hereby waives the provisions of California Civil Code Sections 1932(2) and 1933(4) and the provisions of any similar law hereinafter enacted.

ARTICLE 12 CONDEMNATION

12.1 Landlord's Termination Right: Landlord shall have the right to terminate this Lease if, as a result of a taking by means of the exercise of the power of eminent domain (including a voluntary sale or transfer by Landlord to a condemner under threat of condemnation), (i) all or any part of the Premises is so taken, (ii) more than 10% of the Building Leasable Area is so taken, or (iii) more than 50% of the Common Area is so taken. Any such right to terminate by Landlord must be exercised within a reasonable period of time, to be effective as of the date possession is taken by the condemner.

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12.2 **Tenant's Termination Right:** Tenant shall have the right to terminate this Lease if, as a result of any taking by means of the exercise of the power of eminent domain (including any voluntary sale or transfer by Landlord to any condemnor under threat of condemnation), (i) 10% or more of the Premises is so taken and that part of the Premises that remains cannot be restored within a reasonable period of time and thereby made reasonably suitable for the continued operation of the Tenant's business, or (ii) there is a taking affecting the Common Area and, as a result of such taking, Landlord cannot provide parking spaces within reasonable walking distance of the Premises equal in number to at least 80% of the number of spaces allocated to Tenant by Section 2.1, whether by rearrangement of the remaining parking areas in the Common Area (including construction of multi-deck parking structures or re-striping for compact cars where permitted by Law) or by alternative parking facilities on other land. Tenant must exercise such right within a reasonable period of time, to be effective on the date that possession of that portion of the Premises or Common Area that is condemned is taken by the condemnor.

12.3 **Restoration and Abatement of Rent:** If any part of the Premises or the Common Area is taken by condemnation and this Lease is not terminated, then Landlord shall restore the remaining portion of the Premises and Common Area and interior improvements constructed by Landlord as they existed as of the Commencement Date, excluding any Tenant's Alterations, Trade Fixtures and/or personal property constructed or installed by Tenant. Thereafter, except in the case of a temporary taking, as of the date possession is taken the Base Monthly Rent shall be reduced in the same proportion that the floor area of that part of the Premises so taken (less any addition thereto by reason of any reconstruction) bears to the original floor area of the Premises or by an amount reasonably calculated to compensate Tenant for the decrement in use of the Common Area.

12.4 **Temporary Taking:** If any portion of the Premises is temporarily taken for one year or less, this Lease shall remain in effect, but only if such taking does not materially adversely affect Tenant's ability to use the Premises. If any portion of the Premises is temporarily taken by condemnation for a period which exceeds one year or which extends beyond the natural expiration of the Lease Term, and such taking materially and adversely affects Tenant's ability to use the Premises for the Permitted Use, then Tenant shall have the right to terminate this Lease, effective on the date possession is taken by the condemnor.

12.5 **Division of Condemnation Award:** Any award made as a result of any condemnation of the Premises or the Common Area shall belong to and be paid to Landlord, and Tenant hereby assigns to Landlord all of its right, title and interest in any such award; provided, however, that Tenant shall be entitled to receive any condemnation award that is made directly to Tenant for the following so long as the award made to Landlord is not thereby reduced: (i) for the taking of personal property or Trade Fixtures belonging to Tenant, (ii) for the interruption of Tenant's business or its moving costs, (iii) for loss of Tenant's goodwill; or (iv) for any temporary taking where this Lease is not terminated as a result of such taking. The rights of Landlord and Tenant regarding any condemnation shall be determined as provided in this Article, and each party hereby waives the provisions of California Code of Civil Procedure Section 1265.130 and the provisions of any similar law hereinafter enacted allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises.

ARTICLE 13 DEFAULT AND REMEDIES

13.1 **Events of Tenant's Default:** Tenant shall be in default of its obligations under this Lease if any of the following events occurs (an "**Event of Tenant's Default**"):

A. **Payment.** Tenant shall have failed to pay Base Monthly Rent or Additional Rent when due, and such failure is not cured within 5 business days after delivery of written notice from Landlord specifying such failure to pay; or

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B. **General Covenant.** Tenant shall have failed to perform any term, covenant, or condition of this Lease other than those referred to in any other subsection of this Section 13.1, and Tenant shall have failed to cure such breach within 30 days after written notice from Landlord specifying the nature of such breach where such breach could reasonably be cured within said 30 day period, or if such breach could not be reasonably cured within said 30 day period, Tenant shall have failed to commence such cure within said 30 day period and thereafter continue with due diligence to prosecute such cure to completion within such time period as is reasonably needed; or

C. **Transfer.** Tenant shall have sublet the Premises or assigned its interest in the Lease in violation of the provisions contained in Article 14; or

D. **Abandonment.** Tenant shall have abandoned the Premises; or

E. **Insolvency.** The occurrence of the following: (i) the making by Tenant of any general arrangements or assignments for the benefit of creditors; (ii) Tenant becomes a "debtor" as defined in 11 USC §101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within 90 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within 60 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within 60 days; provided, however, in the event that any provision of this Section 13.1E is contrary to any applicable Law, such provision shall be of no force or effect; or

F. **Required Documents.** Tenant shall have failed to deliver documents required of it pursuant to ¶15.4 or ¶15.6 within the time periods specified therein.

Any written notice of default sent by Landlord to Tenant shall be in lieu of, and not in addition to, any termination notice required under applicable statutory or regulatory provisions (and no further notice shall be required should Landlord elect to terminate this Lease as set forth below).

13.2 **Landlord's Remedies:** If an Event of Tenant's Default occurs, Landlord shall have the following remedies, in addition to all other rights and remedies provided by any Law or otherwise provided in this Lease, to which Landlord may resort cumulatively or in the alternative:

A. **Continue.** Landlord may keep this Lease in effect and enforce by an action at law or in equity all of its rights and remedies under this Lease, including (i) the right to recover the rent and other sums as they become due by appropriate legal action, (ii) the right to make payments required of Tenant or perform Tenant's obligations and be reimbursed by Tenant for the cost thereof with interest at the Agreed Interest Rate from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant, and (iii) the remedies of injunctive relief and specific performance to compel Tenant to perform its obligations under this Lease, if available under California law. Notwithstanding anything contained in this Lease, in the event of a breach of an obligation by Tenant which results in a condition which poses an imminent danger to safety of persons or damage to property, then if Tenant does not cure such breach

within 3 days after delivery to it of written notice from Landlord identifying the breach, Landlord may cure the breach of Tenant and be reimbursed by Tenant for the cost thereof with interest at the Agreed Interest Rate from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. Should Landlord not terminate this Lease by giving Tenant written notice, Landlord may enforce all its rights and remedies under this Lease, including the right to recover the rent as it becomes due under the Lease as provided in California Civil Code Section 1951.4.

B. [intentionally omitted]

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C. Terminate. Landlord may terminate this Lease by giving Tenant written notice of termination, in which event this Lease shall terminate on the date set forth for termination in such notice. Any termination under this Section 13.2C shall not relieve Tenant from its obligation to pay sums then due Landlord or from any claim against Tenant for damages or rent previously accrued or then accruing. In no event shall any one or more of the following actions by Landlord, in the absence of a written election by Landlord to terminate this Lease, constitute a termination of this Lease: (i) appointment of a receiver or keeper in order to protect Landlord's interest hereunder; (ii) consent to any subletting of the Premises or assignment of this Lease by Tenant, whether pursuant to the provisions hereof or otherwise; or (iii) any other action by Landlord or Landlord's Agents intended to mitigate the adverse effects of any breach of this Lease by Tenant to relet the Premises or any portions thereof to the extent such actions do not affect a termination of Tenant's right to possession of the Premises.

D. No Deemed Termination. In the event Tenant breaches this Lease and abandons the Premises, this Lease shall not terminate unless Landlord gives Tenant written notice of its election to so terminate this Lease. The actions by or on behalf of Landlord intended to mitigate the adverse effect of such breach described in Section 13.C, shall not constitute a termination of Tenant's right to possession unless Landlord gives Tenant written notice of termination.

E. Damages. In the event Landlord terminates this Lease, Landlord shall be entitled to damages in an amount as set forth in California Civil Code Section 1951.2 as in effect on the Effective Date. For purposes of computing damages pursuant to California Civil Code Section 1951.2, (i) an interest rate equal to the Agreed Interest Rate shall be used where permitted, and (ii) the term "rent" includes Base Monthly Rent and Additional Rent. Such damages shall include:

(1) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided, computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%); and

(2) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom, including the following: (i) expenses for cleaning, repairing or restoring the Premises; (ii) expenses for altering, remodeling or otherwise improving the Premises for the purpose of reletting, including installation of leasehold improvements (whether such installation be funded by a reduction of rent, direct payment or allowance to a new tenant, or otherwise); (iii) broker's fees, advertising costs and other expenses of reletting the Premises; (iv) costs of carrying the Premises, such as taxes, insurance premiums, utilities and security precautions; (v) expenses in retaking possession of the Premises; and (vi) attorneys' fees and court costs incurred by Landlord in retaking possession of the Premises and in releasing the Premises or otherwise incurred as a result of Tenant's default.

F. Non Exclusive Remedies. Nothing in this Section 13.2 shall limit Landlord's right to indemnification from Tenant as provided in Section 7.2 and Section 10.3. Any notice given by Landlord in order to satisfy the requirements of Section 13.1A or Section 13.1B above shall also satisfy the notice requirements of California Code of Civil Procedure Section 1161 regarding unlawful detainer proceedings.

13.3 Waiver: One party's consent to or approval of any act by the other party requiring the first party's consent or approval shall not be deemed to waive or render unnecessary the first party's consent to or approval of any subsequent similar act by the other party. The receipt by Landlord of any rent or payment with or without knowledge of the breach of any other provision hereof shall not be deemed a waiver of any such breach unless such waiver is in writing and signed by Landlord. No delay or omission in the exercise of any right or remedy accruing to either party upon any breach by the other party under this Lease shall impair such

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right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by either party of any breach of any provision of this Lease shall not be deemed to be a waiver of any subsequent breach of the same or of any other provisions herein contained.

13.4 [intentionally omitted]

13.5 Waiver by Tenant of Certain Remedies: Tenant waives the provisions of Sections 1932(1), 1941 and 1942 of the California Civil Code and any similar or successor law regarding Tenant's right to terminate this Lease or to make repairs and deduct the expenses of such repairs from the rent due under this Lease. Tenant hereby waives any right of redemption or relief from forfeiture under the law of the State of California or under any other present or future law, including the provisions of Sections 1174 and 1179 of the California Code of Civil Procedure.

ARTICLE 14 ASSIGNMENT AND SUBLETTING

14.1 Transfer By Tenant: The following provisions shall apply to any assignment, subletting or other transfer by Tenant or any subtenant or assignee or other successor in interest of the original Tenant (collectively referred to in this Section 14.1 as "Tenant"):

A. Transfer. Tenant shall not do any of the following (collectively referred to herein as a "**Transfer**"), whether voluntarily, involuntarily or by operation of law, without the prior written consent of Landlord, which consent shall not be unreasonably withheld: (i) sublet all or any part of the Premises or allow it to be sublet, occupied or used by any person or entity other than Tenant; (ii) assign its interest in this Lease; (iii) mortgage or encumber the Lease (or otherwise use the Lease as a security device) in any manner; or (iv) materially amend or modify an assignment, sublease or other transfer that has been previously approved by Landlord. Tenant shall reimburse Landlord for all reasonable costs and attorneys' fees incurred by Landlord in

connection with the evaluation, processing, and/or documentation of any requested Transfer, whether or not Landlord's consent is granted, but not to exceed \$1,000.00 without Tenant's prior consent. Landlord's reasonable costs shall include the cost of any review or investigation performed by Landlord or consultant acting on Landlord's behalf of (i) Hazardous Materials used, stored, released, or disposed of by the potential Subtenant or Assignee, and/or (ii) violations of Hazardous Materials Law by the Tenant or the proposed Subtenant or Assignee. Any Transfer so approved by Landlord shall not be effective until Tenant has delivered to Landlord an executed counterpart of the document evidencing the Transfer which (i) contains the same terms and conditions as stated in Tenant's notice given to Landlord pursuant to Section 14.1B, and (ii) in the case of an assignment of the Lease, contains the agreement of the proposed transferee to assume all obligations of Tenant under this Lease arising after the effective date of such Transfer and to remain jointly and severally liable therefor with Tenant. Any attempted Transfer without Landlord's consent shall constitute an Event of Tenant's Default and shall be voidable at Landlord's option. Landlord's consent to any one Transfer shall not constitute a waiver of the provisions of this Section 14.1 as to any subsequent Transfer or a consent to any subsequent Transfer. No Transfer, even with the consent of Landlord, shall relieve Tenant of its personal and primary obligation to pay the rent and to perform all of the other obligations to be performed by Tenant hereunder. The acceptance of rent by Landlord from any person shall not be deemed to be a waiver by Landlord of any provision of this Lease nor to be a consent to any Transfer.

B. Procedure. At least 20 days before a proposed Transfer is to become effective, Tenant shall give Landlord written notice of the proposed terms of such Transfer and request Landlord's approval, which notice shall include the following: (i) the name and legal composition of the proposed transferee; (ii) a current financial statement of the transferee, financial statements of the transferee covering the preceding three years if the same exist, and (if available) an audited financial statement of the transferee for a period ending not more than one year prior to the proposed effective date of the Transfer; (iii) the nature of the proposed transferee's business to be carried on in the Premises; (iv) all consideration to be given on account of the

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Transfer; and (v) an accurately filled out response to Landlord's standard hazardous materials questionnaire. Tenant shall provide to Landlord such other information as may be reasonably requested by Landlord within five days after Landlord's receipt of such notice from Tenant. Landlord shall respond in writing to Tenant's request for Landlord's consent to a Transfer within the later of (i) 20 days of receipt of such request together with the required accompanying documentation, or (ii) 5 days after Landlord's receipt of all information which Landlord reasonably requests within five days after it receives Tenant's first notice regarding the Transfer in question. If Landlord fails to respond in writing within said period, Tenant may provide a second written notice to Landlord requesting such consent and if Landlord fails to respond within 7 days after receipt of such second notice, then Landlord will be deemed to have consented to such Transfer. Tenant shall immediately notify Landlord of any modification to the proposed terms of such Transfer, which shall also be subject to Landlord's consent in accordance with the same process for obtaining Landlord's initial consent to such Transfer.

C. Intentionally Deleted.

D. Other Requirements. If Landlord consents to a Transfer proposed by Tenant, Tenant may enter into such Transfer, and if Tenant does so, the following shall apply:

(1) Tenant shall not be released of its liability for the performance of all of its obligations under the Lease.

(2) If Tenant assigns its interest in this Lease, then Tenant shall pay to Landlord 50% of all Subrent (as defined in ¶14.1D(5)) received by Tenant over and above (i) the assignee's agreement to assume the obligations of Tenant under this Lease, and (ii) all Permitted Transfer Costs related to such assignment. In the case of assignment, the amount of Subrent owed to Landlord shall be paid to Landlord on the same basis, whether periodic or in lump sum, that such Subrent is paid to Tenant by the assignee. All Permitted Transfer Costs shall be amortized on a straight line basis over the term of such sublease (including any extension options) for purposes of calculating the amount due Landlord hereunder.

(3) If Tenant sublets any part of the Premises, then with respect to the space so subleased, Tenant shall pay to Landlord 50% of the positive difference, if any, between (i) all Subrent paid by the subtenant to Tenant, less (ii) the sum of all Base Monthly Rent and Additional Rent allocable to the space sublet and all Permitted Transfer Costs related to such sublease. Such amount shall be paid to Landlord on the same basis, whether periodic or in lump sum, that such Subrent is paid to Tenant by its subtenant. All Permitted Transfer Costs shall be amortized on a straight line basis over the term of such sublease (including any extension options) for purposes of calculating the amount due Landlord hereunder.

(4) Tenant's obligations under this Section 14.1D shall survive any Transfer, and Tenant's failure to perform its obligations hereunder shall be an Event of Tenant's Default. At the time Tenant makes any payment to Landlord required by this Section 14.1D, Tenant shall deliver an itemized statement of the method by which the amount to which Landlord is entitled was calculated, certified by Tenant as true and correct. Upon request therefor, Tenant shall deliver to Landlord copies of all bills, invoices or other documents upon which its calculations are based. Landlord may condition its approval of any Transfer upon obtaining a certification from both Tenant and the proposed transferee of all Subrent and other amounts that are to be paid to Tenant in connection with such Transfer.

(5) As used in this Section 14.1D, the term "**Subrent**" shall mean any consideration of any kind received, or to be received, by Tenant as a result of the Transfer, if such sums are related to Tenant's interest in this Lease or in the Premises, including payments from or on behalf of the transferee (in excess of the fair market value thereof) for Tenant's assets, fixtures, leasehold improvements, inventory, accounts, goodwill, equipment, furniture, and general intangibles. As used in this ¶14.1D, the term "**Permitted Transfer Costs**" shall mean (i) all leasing commissions paid to third parties not affiliated with

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Tenant in order to obtain the Transfer in question, and (ii) all reasonable attorneys' fees incurred by Tenant with respect to the Transfer in question, and (iii) the cost of all improvements made to the Premises in connection with the assignment or sublease.

E. Deemed Transfers. If Tenant is a corporation, the following shall be not be deemed a voluntary assignment of Tenant's interest in this Lease: (i) any dissolution, merger, consolidation, or other reorganization of or affecting Tenant, whether or not Tenant is the surviving corporation; and (ii) if the capital stock of Tenant is not publicly traded, the sale or transfer to one person or entity (or to any group of related persons or entities) stock possessing more than 50% of the total combined voting power of all classes of Tenant's capital stock issued, outstanding and entitled to vote for the election of directors. If Tenant is a partnership, limited liability company or other entity any withdrawal or substitution (whether voluntary, involuntary or by

operation of law, and whether occurring at one time or over a period of time) of any partner, member or other party owning 25% or more (cumulatively) of any interest in the capital or profits of the partnership, limited liability company or other entity or the dissolution of the partnership, limited liability company or other entity, shall be deemed a voluntary assignment of Tenant's interest in this Lease.

F. Permitted Transfers. Notwithstanding anything contained in Section 14.1, Tenant may enter into any of the following transfers (a "Permitted Transfer") without Landlord's prior written consent and the same shall not be deemed to be a "Transfer" hereunder, but after not less than five (5) days prior written notice to Landlord together with reasonable supporting documentation that the Transfer is a Permitted Transfer, and Landlord shall not be entitled to receive any part of any Subrent resulting therefrom that would otherwise be due pursuant to ¶14.1D:

- (1) Tenant may sublease all or part of the Premises or assign its interest in this Lease to any entity which controls, is controlled by, or is under common control with the original Tenant to this Lease;
- (2) Tenant may assign its interest in the Lease to an entity which results from a merger, consolidation or other reorganization of Tenant, whether or not Tenant is the surviving entity, provided that the surviving entity has sufficient financing strength to meet the remaining obligations under this Lease; and
- (3) Tenant may assign this Lease to an entity which purchases or otherwise acquires all or substantially all of the assets of Tenant, provided that the acquiring entity has sufficient financing strength to meet the remaining obligations under this Lease.

G. Reasonable Standards. The consent of Landlord to a Transfer may not be unreasonably withheld, provided that it is agreed to be reasonable for Landlord to consider any of the following reasons, which list is not exclusive, in electing to deny consent:

- (1) The financial strength, credit, character and business or professional standing of the proposed transferee at the time of the proposed Transfer is up to Landlord's reasonable standards for the Premises or the Project;
- (2) A proposed transferee whose occupation of the Premises would cause a diminution in the value of the Building or Project;
- (3) A proposed transferee whose impact or affect on the common facilities or the utility, efficiency or effectiveness of any utility or telecommunication system serving the Building or the Project or the other occupants of the Project would be adverse or require material improvements or changes in any utility or telecommunication capacity currently serving the Building or the Project;

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- (4) A proposed transferee whose occupancy will require a variation in the terms of this Lease (including, without limitation, a variation in the use clause) or which otherwise adversely affects any interest of Landlord;
 - (5) A proposed transferee who is or is likely to be, or whose occupancy of the Premises is or is likely to, subject the Premises or the Project to compliance with additional laws or other governmental requirements beyond those to which Tenant's occupancy is subject;
 - (6) Either the proposed transferee is negotiating with Landlord to lease space in the Building or in the Project at such time;
 - (7) the proposed Transferee will use, store or handle Hazardous Materials (defined above) in or about the Premises of a type, nature or quantity not then acceptable to Landlord;
 - (8) The existence of any default in the payment of Base Monthly Rent or any other sum required of Tenant under this Lease;
 - (9) Landlord otherwise determines that the proposed Transfer would have the effect of materially increasing the expenses associated with operating, maintaining and repairing the Building, Common Area or Project.

H. [intentionally omitted]

14.2 Transfer By Landlord: Landlord and its successors in interest shall have the right to transfer their interest in this Lease and the Project at any time and to any person or entity. In the event of any such transfer, the Landlord originally named herein (and, in the case of any subsequent transfer, the transferor) from the date of such transfer, shall be automatically relieved, without any further act by any person or entity, of all liability for the performance of the obligations of the Landlord hereunder which may accrue after the date of such transfer, provided only that the transferor agrees in writing to assume the obligations of Landlord hereunder accruing from and after the effective date of such transfer. After the date of any such transfer, the term "Landlord" as used herein shall mean the transferee of such interest in the Premises.

ARTICLE 15 GENERAL PROVISIONS

15.1 Landlord's Right to Enter: Subject to Tenant's reasonable security requirements, Landlord and its agents may enter the Premises at any reasonable time after giving at least 24 hours' prior notice to Tenant (and immediately in the case of emergency) for the purpose of: (i) inspecting the same; (ii) posting notices of non-responsibility; (iii) supplying any service to be provided by Landlord to Tenant; (iv) showing the Premises to prospective purchasers, mortgagees or (within 180 days of the expiration date of this Lease) tenants; (v) making necessary alterations, additions or repairs required by this Lease; (vi) performing Tenant's obligations when Tenant has failed to do so after written notice from Landlord; (vii) placing upon the Premises ordinary "for lease" signs (within 180 days of the expiration date of this Lease) or "for sale" signs; and (viii) responding to an emergency. Landlord shall have the right to use any and all means necessary and proper to enter the Premises in an emergency. Any entry into the Premises obtained by Landlord in accordance with this ¶15.1 shall not be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction, actual or constructive, of Tenant from the Premises.

15.2 Surrender of the Premises: Upon the expiration or sooner termination of this Lease, Tenant shall vacate and surrender the Premises to Landlord in the same condition as existed at the Commencement Date, except for (i) reasonable wear and tear, (ii) damage caused by any peril or condemnation, (iii) contamination by Hazardous Materials for which Tenant is not responsible pursuant to Section 7.2 and (iv)

repair, maintenance or replacement tasks to be performed by Landlord hereunder. In this regard, normal wear and tear shall be construed to mean wear and tear caused to the Premises by the natural aging process which occurs in spite of prudent application of commercially reasonable standards for maintenance, repair and janitorial practices, and does not include items of neglected or deferred maintenance. If Landlord so requests, Tenant shall, prior to the expiration or sooner termination of this Lease, (i) remove any Tenant's Alterations which Tenant is required to remove pursuant to Section 5.2 and repair all damage caused by such removal, and (ii) return the Premises or any part thereof to its original configuration existing as of the time the Premises were delivered to Tenant if Tenant is required to do so pursuant to Section 5.2. If the Premises are not so surrendered at the termination of this Lease, Tenant shall continue to be responsible for the payment of Rent until the Premises are so surrendered in accordance with said provisions and Tenant shall be liable to Landlord for all costs incurred by Landlord in returning the Premises to the required condition, plus interest on all costs incurred at the Agreed Interest Rate. Tenant shall indemnify Landlord against loss or liability resulting from delay by Tenant in so surrendering the Premises, including, without limitation, any claims paid to any succeeding tenant or losses and damages suffered by Landlord due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

15.3 Holding Over: This Lease shall terminate without further notice at the expiration of the Lease Term. Any holding over by Tenant after expiration of the Lease Term shall not constitute a renewal or extension of the Lease or give Tenant any rights in or to the Premises except as expressly provided in this Lease. Any holding over after such expiration without the written consent of Landlord shall be construed to be a tenancy from month to month on the same terms and conditions herein specified insofar as applicable except that Base Monthly Rent shall be increased to an amount equal to 150% of the Base Monthly Rent payable during the last full calendar month of the Lease Term.

15.4 Subordination: The following provisions shall govern the relationship of this Lease to any Security Instrument:

A. Existing Security Instruments. The Lease is subject and subordinate to all Security Instruments existing as of the Effective Date. However, if any Lender so requires, this Lease shall become prior and superior to any such Security Instrument.

B. New Security Instruments. At Landlord's election, this Lease shall become subject and subordinate to any Security Instrument created after the Effective Date. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed so long as Tenant is not in default and performs all of its obligations under this Lease, unless this Lease is otherwise terminated pursuant to its terms.

C. Documents. Tenant shall upon request execute any document or instrument reasonably required by any Lender to make this Lease either prior or subordinate to a Security Instrument, which may include such other matters as the Lender customarily and reasonably requires in connection with such agreements, including provisions that the Lender not be liable for (i) the return of any security deposit unless the Lender receives it from Landlord, and (ii) any defaults on the part of Landlord occurring prior to the time the Lender takes possession of the Project in connection with the enforcement of its Security Instrument. Tenant's failure to execute any such document or instrument within 10 days after written demand therefor shall constitute an Event of Tenant's Default.

15.5 Mortgagee Protection and Attornment: In the event of any default on the part of the Landlord, Tenant will use reasonable efforts to give notice by registered mail to any Lender whose name has been provided to Tenant and shall offer such Lender a reasonable opportunity to cure the default. Tenant shall attorn to any purchaser of the Premises at any foreclosure sale or private sale conducted pursuant to any Security

Instrument encumbering the Premises, or to any grantee or transferee designated in any deed given in lieu of foreclosure.

15.6 Estoppel Certificates and Financial Statements: At all times during the Lease Term, each party agrees, following any request by the other party, promptly to execute and deliver to the requesting party within 15 days following delivery of such request an estoppel certificate: (i) certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect, (ii) stating the date to which the rent and other charges are paid in advance, if any, (iii) acknowledging that there are not, to the certifying party's knowledge, any uncured defaults on the part of any party hereunder or, if there are uncured defaults, specifying the nature of such defaults, and (iv) certifying such other information about the Lease as may be reasonably required by the requesting party. A failure to deliver an estoppel certificate within 15 days after delivery of a request therefor shall be a conclusive admission that, as of the date of the request for such statement: (i) this Lease is unmodified except as may be represented by the requesting party in said request and is in full force and effect, (ii) there are no uncured defaults in the requesting party's performance, and (iii) no rent has been paid more than 30 days in advance. At any time during the Lease Term Tenant shall, upon 15 days' prior written notice from Landlord, provide Tenant's most recent public filing containing its financial statements (or if Tenant is not a public company at the time, such entity's most recent financial statements) to any existing Lender or to any potential Lender or buyer of the Premises.

15.7 Consent: Whenever Landlord's approval or consent is required by this Lease, such approval or consent shall not be unreasonably withheld, delayed or conditioned, unless a different standard has been expressly provided in this Lease for the particular matter requiring Landlord's consent or approval.

15.8 Notices: Any notice required or desired to be given regarding this Lease shall be in writing and may be given by personal delivery, by facsimile, by courier service, or by mail. A notice shall be deemed to have been given (i) on the third business day after mailing if such notice was deposited in the United States mail, certified or registered, postage prepaid, addressed to the party to be served at its Address for Notices specified in Section Q or Section R of the Summary (as applicable), (ii) when delivered if given by personal delivery, and (iii) in all other cases when actually received at the party's Address for Notices. Either party may change its address by giving notice of the same in accordance with this Section 15.8.

15.9 Attorneys' Fees: In the event either Landlord or Tenant shall bring any action or legal proceeding for an alleged breach of any provision of this Lease, to recover rent, to terminate this Lease or otherwise to enforce, protect or establish any term or covenant of this Lease, the prevailing party shall be entitled to recover as a part of such action or proceeding, or in a separate action brought for that purpose, reasonable attorneys' fees, court costs, and experts' fees as may be fixed by the court.

15.10 **Corporate Authority:** If Tenant is a corporation, partnership or other entity, Tenant represents and warrants that each individual executing this Lease on behalf of Tenant is duly authorized to execute and deliver this Lease on behalf of such corporation in accordance with the by-laws of such corporation (or partnership in accordance with the partnership agreement of such partnership) and that this Lease is binding upon such corporation (or partnership) in accordance with its terms. Tenant is a duly authorized and existing corporation, is qualified to do business in California, and has full right and authority to enter into this Lease.

15.11 **Miscellaneous:** Should any provision of this Lease prove to be invalid or illegal, such invalidity or illegality shall in no way affect, impair or invalidate any other provision hereof, and such remaining provisions shall remain in full force and effect. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor. The captions used in this Lease are for convenience only and shall not be considered in the construction or interpretation of any provision hereof. Any fully executed copy of this Lease shall be deemed an original for all purposes. This

Lease shall, subject to the provisions regarding assignment, apply to and bind the respective heirs, successors, executors, administrators and assigns of Landlord and Tenant. "**Party**" shall mean Landlord or Tenant, as the context implies. If Tenant consists of more than one person or entity, then all members of Tenant shall be jointly and severally liable hereunder. This Lease shall be construed and enforced in accordance with the laws of the State of California. The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against either Landlord or Tenant. When the context of this Lease requires, the neuter gender includes the masculine, the feminine, a partnership or corporation or joint venture, and the singular includes the plural. The terms "shall", "will" and "agree" are mandatory. The term "may" is permissive. When a party is required to do something by this Lease, it shall do so at its sole cost and expense without right of reimbursement from the other party unless a provision of this Lease expressly requires reimbursement. Where a party hereto is obligated not to perform any act, such party is also obligated to restrain any others within its control from performing said act, including the agents of such party. Landlord shall not become or be deemed a partner or a joint venturer with Tenant by reason of the provisions of this Lease.

15.12 **Termination by Exercise of Right:** If this Lease is terminated pursuant to its terms by the proper exercise of a right to terminate specifically granted to Landlord or Tenant by this Lease, then this Lease shall terminate 30 days after the date the right to terminate is properly exercised (unless another date is specified in that part of the Lease creating the right, in which event the date so specified for termination shall prevail), the rent and all other charges due hereunder shall be prorated as of the date of termination, and neither Landlord nor Tenant shall have any further rights or obligations under this Lease except for those that have accrued prior to the date of termination or those obligations which this Lease specifically provides are to survive termination. This ¶15.12 does not apply to a termination of this Lease by Landlord as a result of an Event of Tenant's Default.

15.13 **Brokerage Commissions:** Each party hereto (i) represents and warrants to the other that it has not had any dealings with any real estate brokers, leasing agents or salesmen, or incurred any obligations for the payment of real estate brokerage commissions or finder's fees which would be earned or due and payable by reason of the execution of this Lease, other than to the Retained Real Estate Brokers described in Section S of the Summary, and (ii) agrees to indemnify, defend, and hold harmless the other party from any claim for any such commission or fees which result from the actions of the indemnifying party. Landlord shall be responsible for, and shall indemnify, defend and hold Tenant harmless from, the payment of any commission owed to the Retained Real Estate Brokers.

15.14 **Force Majeure:** Any prevention, delay or stoppage due to strikes, lock-outs, inclement weather, labor disputes, inability to obtain labor, materials, fuels or reasonable substitutes therefor, governmental restrictions, regulations, controls, action or inaction, civil commotion, fire or other acts of God, and other causes beyond the reasonable control of Landlord (except financial inability) shall excuse the performance by a party, for a period equal to the period of any said prevention, delay or stoppage, of any obligation hereunder.

15.15 **Entire Agreement:** This Lease constitutes the entire agreement between the parties, and there are no binding agreements or representations between the parties except as expressed herein. Tenant acknowledges that neither Landlord nor Landlord's Agents has made any legally binding representation or warranty as to any matter except those expressly set forth herein, including any warranty as to (i) whether the Premises may be used for Tenant's intended use under existing Law, (ii) the suitability of the Premises or the Project for the conduct of Tenant's business, or (iii) the condition of any improvements. There are no oral agreements between Landlord and Tenant affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between Landlord and Tenant or displayed by Landlord to Tenant with respect to the subject matter of this Lease. This instrument shall not be legally binding until it is executed by both Landlord and Tenant. No subsequent change or addition to this Lease shall be binding unless in writing and signed by Landlord and Tenant.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease with the intent to be legally bound thereby, to be effective as of the Effective Date.

LANDLORD:

SHORELINE PARK, LLC
a Delaware limited liability company

By: Divco West Group, LLC,
a Delaware limited liability company
Its Agent

By: /s/ SCOTT L. SMITHERS
Name: Scott L. Smithers

TENANT:

OMNICELL, Inc.
a Delaware corporation

By: /s/ DENNIS P. WOLF
Name: Dennis P. Wolf
Title: Executive Vice President
of Operations, Finance
and Administration, and
Chief Financial Officer

Dated: 6/30/2003

Exhibit A

Project Site Plan and Outline of the Premises

Exhibit B

Work Letter For Construction Obligations

This Exhibit B forms a part of that certain Lease (the "**Lease**") by and between Shoreline Park, LLC, a Delaware limited liability company, as Landlord, and Omnicell Inc., a Delaware corporation, as Tenant, to which this Exhibit is attached. If there is any conflict between this Exhibit and the Lease, this Exhibit shall govern.

1. Defined Terms. All defined terms referred to in this Exhibit shall have the same meaning as defined in the Lease to which this Exhibit is a part, except where expressly defined to the contrary.

2. Additional Definitions. Each of the following terms shall have the following meaning:

"Construction Plans" - The complete plans and specifications for the construction of the Tenant Improvements consisting of all architectural, engineering, mechanical and electrical drawings and specifications which are required to obtain all building permits, licenses and certificates from the applicable governmental authority(ies) for the construction of the Tenant Improvements. The Construction Plans shall be prepared by duly licensed and/or registered architectural and/or engineering professionals selected by Landlord in its sole and absolute discretion, and in all respects shall be in substantial compliance with all applicable laws, rules, regulations, building codes for the city and county where the Building is located. The Construction Plans will be prepared so as to accurately and fully reflect the improvements and other matters described in the Space Plans.

"Force Majeure Delays" - Any delay, other than a Tenant Delay, by Landlord in completing the Tenant Improvements by the Estimated Commencement Date set forth in the Lease by reason of (i) any strike, lockout or other labor trouble or industrial disturbance (whether or not on the part of the employees of either party hereto), (ii) governmental preemption of priorities or other controls in connection with a national or other public emergency, civil disturbance, riot, war, sabotage, blockade, embargo, inability to secure customary materials, supplies or labor through ordinary sources by reason of regulation or order of any government or regulatory body, or (iii) shortages of fuel, materials, supplies or labor, (iv) lightning, earthquake, fire, storm, tornado, flood, washout explosion, inclement weather or any other similar industry-wide or Building-wide cause beyond the reasonable control of Landlord, or (v) any other cause, whether similar or dissimilar to the above, beyond Landlord's reasonable control. The time for performance of any obligation of Landlord to construct Landlord's Work under this Work Letter or the Lease shall be extended at Landlord's election by the period of any delay caused by any of the foregoing events.

"Space Plan" - That certain Space Plan attached hereto as Exhibit B-1, which reflect the Tenant Improvements to be constructed by Landlord. Landlord and Tenant hereby approve of the Space Plan. The type and quality of materials to be used by Landlord to construct the Tenant Improvements will be in accordance with the specifications described in Exhibit B-2 attached hereto (the "**Specifications**").

"Substantial Completion," "Substantially Complete," "Substantially Completed" - The terms Substantial Completion, Substantially Completed and Substantially Complete shall mean when the following have occurred or would have occurred but for Tenant Delays:

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(a) The Tenant Improvements have been Substantially Completed substantially in accordance with the Construction Plans, except "punch list" items which may be completed without materially impairing Tenant's use of the Premises or a material portion thereof; and

(b) Landlord has obtained from the appropriate governmental authority a temporary, conditional or final certificate of occupancy (or equivalent), if one is required, for the Tenant Improvements permitting occupancy of the Premises by Tenant.

"Tenant Delay" - Any delay incurred by Landlord in completing the Tenant Improvements due to (i) a delay by Tenant, or by any person employed or engaged by Tenant, in approving or delivering to Landlord any plans, schedules or information, including, without limitation, the Construction Plans beyond the applicable time period set forth in this Exhibit, if any; (ii) any changes requested by Tenant in or to previously approved work or in the Space Plan or Construction Plans; (iii) requests for materials and finishes which are not readily available, and/or delays in delivery of any materials specified by Tenant through change orders; or (v) interference with the construction of the Tenant Improvements.

"Tenant Improvements" - The improvements to be installed by Landlord in the Premises substantially in accordance with the Construction Plans and the type and quality of the Tenant Improvements shall be in accordance with the Specifications.

2. Construction of the Tenant Improvements.

2.1 Construction Plans. Landlord shall cause to be prepared the Construction Plans for the Tenant Improvements that are consistent with and are logical evolutions of the Space Plan and the building standards. Tenant's approval of the Construction Plans shall not be required. However, if requested by Landlord, Tenant shall notify Landlord in writing within five (5) days after receipt of Construction Plans or any preliminary plans that (i) Tenant

approves of such plans; or (ii) Tenant disapproves the plans because they vary in design from the Space Plan approved by Landlord and Tenant in the particular instances specified by Tenant in such notice (including, without limitation, the specific changes requested by Tenant), but such disapproval shall constitute a Tenant Delay unless the plans deviate from the Space Plan or changes in such Space Plan that have been approved in writing by Landlord.

2.2 **Construction.** Landlord shall construct the Tenant Improvements substantially in accordance with the Construction Plans. The construction contract for constructing the Tenant Improvements and the contractor(s) to perform the work shall be approved and/or selected, as the case may be, by Landlord at its sole and absolute discretion without the consent of Tenant. The parties anticipate that the Tenant Improvements will be Substantially Completed by the estimated Commencement Date, subject to Tenant Delays and Force Majeure Delays.

2.3 **Tenant's Responsibility.** Tenant shall be solely responsible for the suitability for the Tenant's needs and business of the design and function of the Tenant Improvements. Tenant shall also be responsible for procuring or installing in the Premises any trade fixtures, equipment, furniture, furnishings, telephone equipment or other personal property ("**Personal Property**") to be used in the Premises by Tenant other than the FF&E described in Paragraph 7 below), and the cost of such Personal Property shall be paid by Tenant. Tenant shall conform to the Building's wiring standards in installing any telephone equipment and shall be subject to any and all rules of the site during construction.

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3. **Payment of Construction Costs.** Landlord shall pay for the costs to construct the Tenant Improvements based on the Space Plan in existence as of the date hereof. Any additional costs due to changes in the Tenant Improvements reflected in the Space Plan or in the Construction Plans requested by Tenant or as a result of any Tenant Delay shall be paid by Tenant as provided in section 4 below.

4. **Changes in Work.** Tenant shall be permitted to make changes in the Space Plan, Construction Plans, Tenant Improvements or Specifications, but only if Tenant agrees to pay for any additional cost attributable to such changes and provided such changes are approved by Landlord, which approval will not be unreasonably withheld. Any change that results in a delay in constructing the Tenant Improvements shall be deemed a Tenant Delay, and shall extend the time period by which Landlord must Substantially Complete the Tenant Improvements, but shall not extend or postpone the date for payment of rent or for commencement of the term under this Lease. The cost of such changes, including the cost to revise the Construction Plans, obtain any additional permits and construct any additional improvements required as a result thereof, shall be paid by Tenant to Landlord within ten (10) days after request by Landlord, together with reasonable supporting documentation. If Landlord does not receive such payment within said ten (10) day period, Landlord shall have the right, in addition to any other rights or remedies available under the Lease, at law or in equity, to (i) discontinue all or any portion of the work until it receives said payment; (ii) proceed with the other work not affected by such change until such payment is received; (iii) proceed with the work contemplated with such change; or (iv) proceed with the work without making such change; in which case the commencement or completion of such work shall not be deemed a waiver of Tenant's obligation to pay for same or any additional costs or expenses incurred as a result thereof.

5. **ADA.** By the Commencement Date, Landlord agrees that the Tenant Improvements and the Premises will comply with the accessibility requirements of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et. seq.* and any rules, regulations, restrictions, guidelines, requirements or publications promulgated or published pursuant thereto ("**ADA**"), exclusive of any changes that may be required due to Tenant's particular use or change in use of the Premises or the manner in which it conducts its business therein, or the construction of any improvements or alterations in the Premises by Tenant.

6. **Landlord's Exterior Work.** At its expense, Landlord agrees to make the exterior remodeling improvements depicted in Exhibit B-3 attached hereto ("**Exterior Work**"). Landlord shall have the right, but not the obligation to make changes to the Exterior Work without the consent of Tenant so long as the changes that may reduce the scope of the Exterior Work do not have an adverse effect on the cosmetic appearance of the exterior of the Building. Landlord agrees to complete the Exterior Work prior to, and as a condition to, the Commencement Date, subject to Tenant Delays.

7. **FFE.** At its expense, Landlord agrees to provide the furniture, fixtures and equipment as noted in the Space Plan attached hereto (the "**FF&E**") on or before the Commencement Date. The quality and type of materials shall be subject to the reasonable approval of Landlord and Tenant and consistent with Class A office use. Tenant shall provide its approval or disapproval within three days after request by Landlord and any disapproval must include the changes requested by Tenant for approval.

8. **Warranty.** The Tenant Improvements, the Exterior Work and the FF&E shall be constructed or obtained in accordance with the Construction Plans and Specifications (in the case of the Tenant Improvements), Exhibit B-3 (in the case of the Exterior Work) or the Space Plan (in the case of the FF&E), in full compliance with all Laws. Landlord shall warrant that the Tenant Improvements and the Exterior Work are free from material defects in workmanship and materials for a period of one year following completion ("**Warranty Period**"), and Landlord will assign to Tenant any warranty Landlord

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may receive in connection with the FF&E. Tenant must notify Landlord of a defect promptly after Tenant discovers such defect, but not later than the end of the Warranty Period.

9. **Remeasurement of Square Footage.** The Premises shall contain a rentable area of approximately the rentable square feet ("**RSF**") set forth in Section D of the Lease Summary, which is the Landlord's best estimate of the rentable area that will be in the Premises upon completion of construction of the Tenant Improvements. Upon the completion of the Tenant Improvements in the Premises, Landlord shall cause the Premises to be remeasured in accordance with the Standard (as defined below) and shall, within (10) days of the completion of the Tenant Improvements, advise Tenant, by notice, of the RSF in the Premises and the basis for such calculation ("**Landlord's Determination**"). If Tenant shall dispute Landlord's Determination, it may contest Landlord's Determination by sending Landlord a notice ("**Contest Notice**") within thirty (30) days following receipt of Landlord's Determination. If Tenant does not send the Contest Notice within such time period, Landlord's Determination shall be final and binding on Tenant and all dollar amounts set forth in Section K of the Lease Summary which are predicated on RSF shall be amended to reflect Landlord's Determination. If Tenant sends the Contest Notice within the time period, then within ten (10) days of Landlord's receipt of the Contest Notice from Tenant, Landlord and Tenant shall jointly appoint a designer or architect ("**Neutral**") to field measure the Premises in accordance with the Standard, and all figures, percentages and dollar amounts in the Lease which are predicated on the RSF set forth in Section K of the Lease Summary shall be amended accordingly, based on the field measurements by the Neutral in accordance with the Standard. The Neutral must be a designer or architect with ten (10) years of experience and familiar with BOMA definitions in the Standard. If Landlord and Tenant are unable to agree upon a Neutral, such appointment shall be made as quickly as possible by any court of competent jurisdiction after request by either Landlord or Tenant. The calculation of the rentable area shall include the rentable area of the floor according to the

Exhibit B-1

Space Plan

Exhibit B-2

Specifications

Exhibit B-3

Exterior Work

Exhibit C

ACCEPTANCE AGREEMENT

This Acceptance Agreement is made as of _____, 2003, by and between the parties hereto with regard to that Lease dated June 30, 2003, by and between Shoreline Park, LLC, a Delaware limited liability company, as Landlord (“Landlord”), and Omnicell, Inc., a Delaware corporation, as Tenant (“Tenant”), affecting those premises commonly known as 1201 Charleston Road, Mountain View, California. The parties hereto agree as follows:

1. Landlord delivered possession of the Premises to Tenant on _____, 2003 with all improvements and work, if any, required completed in the condition required under the Lease, subject to those items listed on Schedule 1, and Tenant accepted possession of the Premises.
2. The Commencement Date of the Lease Term for the Premises is _____, 2003, and the Lease Term for the Premises shall expire on _____, unless sooner terminated according to the terms of the Lease.

LANDLORD:

SHORELINE PARK, LLC
a Delaware limited liability company

By: Divco West Group, LLC,
a Delaware limited liability company
Its Agent

TENANT:

OMNICELL, Inc.
a Delaware corporation

By: /s/ DENNIS P. WOLF
Name: Dennis P. Wolf
Title: Executive Vice President
of Operations, Finance
and Administration, and
Chief Financial Officer

By: /s/ SCOTT L. SMITHERS
Name: Scott L. Smithers
Its: DOD

Exhibit D

Hazardous Materials Disclosure Certificate

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord (identified below) to evaluate and finalize a lease agreement with you as Tenant. After a lease agreement is signed by you and the Landlord (the “Lease Agreement”), on an annual basis in accordance with the Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. The information contained in the initial Hazardous Materials Disclosure Certificate and each annual certificate provided by you thereafter will be maintained in confidentiality by Landlord subject to release and disclosure as required by (i) any lenders and owners and their respective environmental consultants, (ii) any prospective purchaser(s) of all or any portion of the property on which the Premises are located, (iii) Landlord to defend itself or its lenders, partners or representatives against any claim or demand, and (iv) any laws, rules, regulations, orders, decrees, or ordinances, including, without limitation, court orders or subpoenas. Any and all capitalized terms used herein, which are not otherwise defined herein, shall have the same meaning

ascribed to such term in the Lease Agreement. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord: c/o Divco West Group, LLC,
150 Almaden Blvd., Suite 700
San Jose, CA 94549
Attn.:

Name of (Prospective) Tenant:

Mailing Address:

Contact Person, Title and Telephone Number(s):

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number(s):

Address of (Prospective) Premises:

Length of (Prospective) Initial Term:

1. General Information:

Describe the initial proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled

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services and activities to be provided or otherwise conducted. Existing Tenants should describe any proposed changes to on-going operations.

2. Use, Storage and Disposal of Hazardous Materials

2.1 Will any Hazardous Materials be used, generated, stored or disposed of in, on or about the Premises? Existing Tenants should describe any Hazardous Materials which continue to be used, generated, stored or disposed of in, on or about the Premises.

Wastes	Yes	<input type="radio"/>	No	<input type="radio"/>
Chemical Products	Yes	<input type="radio"/>	No	<input type="radio"/>
Other	Yes	<input type="radio"/>	No	<input type="radio"/>

If Yes is marked, please explain:

2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Materials to be used, generated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws); and the proposed location(s) and method of disposal for each Hazardous Material, including, the estimated frequency, and the proposed contractors or subcontractors. Existing Tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. Storage Tanks and Sumps

3.1 Is any above or below ground storage of gasoline, diesel, petroleum, or other Hazardous Materials in tanks or sumps proposed in, on or about the Premises? Existing Tenants should describe any such actual or proposed activities.

Yes No

If yes, please explain:

4. Waste Management

4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing Tenants should describe any additional identification numbers issued since the previous certificate.

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Yes o No o

4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing Tenants should describe any new reports filed.

Yes o No o

If yes, attach a copy of the most recent report filed.

5. Wastewater Treatment and Discharge

5.1 Will your company discharge wastewater or other wastes to:

storm drain?	sewer?
surface water?	no wastewater or other wastes discharged.

Existing Tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes o No o

If yes, describe the type of treatment proposed to be conducted. Existing Tenants should describe the actual treatment conducted.

6. Air Discharges

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing Tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes o No o

If yes, please describe:

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing Tenants should specify any such equipment being operated in, on or about the Premises.

Spray booth(s)	Incinerator(s)
Dip tank(s)	Other (Please describe)
Drying oven(s)	No Equipment Requiring Air Permits

If yes, please describe:

7. Hazardous Materials Disclosures

7.1 Has your company prepared or will it be required to prepare a Hazardous Materials management plan ("Management Plan") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing Tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes o No o

If yes, attach a copy of the Management Plan. Existing Tenants should attach a copy of any required updates to the Management Plan.

7.2 Are any of the Hazardous Materials, and in particular chemicals, proposed to be used in your operations in, on or about the Premises regulated under Proposition 65? Existing Tenants should indicate whether or not there are any new Hazardous Materials being so used which are regulated under Proposition 65.

Yes o No o

If yes, please explain:

8. Enforcement Actions and Complaints

8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing Tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes No

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing Tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered to Landlord pursuant to the Lease Agreement.

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8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes No

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and all other documents related thereto as requested by Landlord. Existing Tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the Lease Agreement.

8.3 Have there been any problems or complaints from adjacent Tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing Tenants should indicate whether or not there have been any such problems or complaints from adjacent Tenants, owners or other neighbors at, about or near the Premises.

Yes No

If yes, please describe. Existing Tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the Lease Agreement.

9. Permits and Licenses

9.1 Attach copies of all Hazardous Materials permits and licenses including a Transporter Permit number issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any wastewater discharge permits, air emissions permits, and use permits or approvals. Existing Tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

The undersigned hereby acknowledges and agrees that (A) this Hazardous Materials Disclosure Certificate is being delivered in connection with, and as required by, Landlord in connection with the evaluation and finalization of a Lease Agreement and will be attached thereto as an exhibit; (B) that this Hazardous Materials Disclosure Certificate is being delivered in accordance with, and as required by, the provisions of the Lease Agreement; and (C) that Tenant shall have and retain full and complete responsibility and liability with respect to any of the Hazardous Materials disclosed in the Hazardous Material Certificate notwithstanding Landlord's/Tenant's receipt and/or approval of such certificate. Tenant further agrees that none of the following described acts or events shall be construed or otherwise interpreted as either (a) excusing, diminishing or otherwise limiting Tenant from the requirement to fully and faithfully perform its obligations under the Lease with respect to Hazardous Materials, including, without limitation, Tenant's indemnification of the Indemnitees and compliance with all Environmental Laws, or (b) imposing upon Landlord, directly or indirectly, any duty or liability with respect to any such Hazardous Materials, including, without limitation, any duty on Landlord to investigate or otherwise verify the accuracy of the representations and statements made therein or to ensure that Tenant is in compliance with all Environmental Laws;

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(i) the delivery of such certificate to Landlord and/or Landlord's acceptance of such certificate, (ii) Landlord's review and approval of such certificate, (iii) Landlord's failure to obtain such certificate from Tenant at any time, or (iv) Landlord's actual or constructive knowledge of the types and quantities of Hazardous Materials being used, stored, generated, disposed of or transported on or about the Premises by Tenant or Tenant's Representatives. Notwithstanding the foregoing or anything to the contrary contained herein, the undersigned acknowledges and agrees that Landlord and its partners, lenders and representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof, of the Lease Agreement.

I (print name) _____, acting with full authority to bind the (proposed) Tenant and on behalf of the (proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(Prospective) Tenant:

By: /s/ DENNIS P. WOLF

Title: Executive Vice President
of Operations, Finance
and Administration, and
Chief Financial Officer

Date: 6/30/2003

ADDENDUM NO. 1

This ADDENDUM NO. 1 (this "**Addendum**") is made in connection with and is a part of that certain Lease, dated as of June 12, 2003, by and between Shoreline Park, LLC, a Delaware limited liability company, as Landlord, and Omnicell, Inc., a Delaware corporation (the "**Lease**").

1. **Definitions and Conflict.** All capitalized terms referred to in this Addendum shall have the same meaning as provided in the Lease, except as expressly provided to the contrary in this Addendum. In case of any conflict between any term or provision of the Lease and any exhibits attached thereto and this Addendum, this Addendum shall control.

2. **Option to Extend and Rent During the Extended Period.** Tenant shall have one (1) option to extend the initial Lease Term for a period of five (5) years (the period shall be referred to as the "**Extension Period**") by giving written notice of exercise of such option ("**Extension Option Notice**") at least one hundred eighty (180) days, but not more than three hundred sixty-five (365) days, prior to the expiration of the initial Lease Term. If an Event of Tenant's Default (as defined in Section 13.1 of the Lease) exists on the date of giving an Extension Option Notice, or if an Event of Tenant's Default exists on the date of the applicable Extension Period is to commence, the Extension Period at the option of Landlord shall not commence and the Lease shall expire at the end of initial Lease Term. The Extension Period shall commence, if at all, immediately following the expiration of the initial Lease Term. If Tenant is in default (after notice and the expiration of the applicable cure period) under any term or provision of the Lease on the date of the applicable Extension Period is to commence, the Extension Period at the option of Landlord shall not commence and the Lease shall expire at the end of initial term. The Extension Period shall be upon all of the terms and provisions of the Lease, except that the Base Monthly Rent during such Extension Period shall be five-five percent (95%) of then Fair Market Rent, (ii) Tenant shall not have any right or option to extend the Lease Term beyond the one and only Extension Period, (iv) any work, allowances or concession provided, granted or available to Tenant at or in connection with the commencement of the initial Lease Term will not apply, except that Landlord shall agree, at not cost to Tenant, to recarpet and repaint the Premises.

2.1 **Fair Market Rent.** The term "**Fair Market Rent**" for purposes of determining Base Monthly Rent during the Extension Period shall mean the base monthly rent generally applicable to similar leases in like buildings for space of comparable size, age, quality of the Premises in the Mountain View, Sunnyvale and Santa Clara, California area projected as of the first day of the Extension Period by giving due consideration for the quality of the Building and improvements therein (including the quality of the then existing improvements in the Premises), for a term comparable to the Extension Period at the time the commencement of the Extension Period is scheduled to commence, and otherwise subject to the terms and conditions of this Lease that will be applicable during the Extension Period.

2.2 **Procedure to Determine Fair Market Rent.** Landlord shall notify Tenant in writing of Landlord's determination of the Fair Market Rent ("**Landlord's FMR**") after receipt of the Extension Option Notice. Within thirty (30) days after receipt of such written notice of Landlord's FMR, Tenant shall have the right either to: (i) accept Landlord's FMR, or (ii) elect to have the Fair Market Rent determined in accordance with the appraisal procedure set forth below. If Tenant fails to provide written notice of such election within said time period, Landlord may send a second written notice to Landlord requesting such election and if Tenant fails to provide written notice of such election to Landlord within five (5) days after receipt of such second written notice, then it shall be deemed an acceptance of Landlord's FMR. The election (or deemed election) by Tenant under this section shall be non-revocable and binding on the parties.

2.3 **Appraisers.** If Tenant has elected to have the Fair Market Rent determined by an appraisal, then within ten (10) days after receipt of Tenant's written notice of such an election, each party, by giving written notice to the other party, shall appoint an appraiser to render a written opinion of the Fair Market Rent for the Extension Period. Each appraiser must be a member of the Appraisal Institute of America (MAI) for at least five years and with at least five years experience in the appraisal of rental rates of office buildings in the area in which the Building is located and otherwise unaffiliated with either Landlord or Tenant. The two appraisers shall render their written opinion of the Fair Market Rent for the Extension Period to Landlord and Tenant within twenty (20) days after the appointment of the second appraiser. If the Fair Market Rent of each appraiser is within five percent (5%) of each other, then the average of the two appraisals of Fair Market Rent shall be the Base Monthly Rent for the Extension Period. If one party does not appoint its appraiser as provided above, then the one appointed shall determine the Fair Market Rent. The Fair Market Rent so determined under this section shall be binding on Landlord and Tenant.

2.4 **Third Appraiser.** If the Fair Market Rent determined by the appraisers is more than five percent (5%) apart, then the two appraisers shall pick a third appraiser within ten (10) days after the two appraisers have rendered their opinions of Fair Market Rent as provided above. If the two appraisers are unable to agree on the third appraiser within said ten (10) day period, Landlord and Tenant shall mutually agree on the third appraiser within ten (10) days thereafter and if the parties fail to agree within said time period, then at the request of either Landlord or Tenant, such third appraiser shall be promptly appointed by the then Presiding Judge of the Superior Court of the State of California for the County where the Premises are located.. The third appraiser shall be a person who has not previously acted in any capacity for either party and must meet the qualifications stated above.

2.5 **Impartial Appraisal.** Within twenty (20) days after its appointment, the third appraiser shall render its written opinion of the Fair Market Rent for the applicable Extension Period ("**Third Opinion**"). If the fair market rent set forth in the Third Opinion is equidistant from the fair market rent determination of Landlord's and Tenant's appraiser, then the fair market rent contained in the Third Opinion shall be the Base Monthly Rent during the Extension Period. If the fair market rent of the Third Opinion is not equidistant from the fair market rent made by Landlord's and Tenant's appraiser, then the two closest fair market determinations made by Landlord's appraiser, Tenant's appraiser and the Third Opinion shall be average and such average shall be the Base Monthly Rent during the applicable Extension Period. The fair market rent determined in accordance with the foregoing procedure shall be binding on the parties

2.6 Appraisal Costs. Each party shall bear the cost of its own appraiser and one-half (1/2) the cost of the third appraiser.

2.7 Acknowledgment of Rent. After the Fair Market Rent for the Extension Period has been established in accordance with the foregoing procedure, Landlord and Tenant shall promptly execute an amendment to the Lease to reflect the Base Monthly Rent for the Extension Period.

2.8 Personal to Assignees. The foregoing option to extend is personal to the original Tenant signing the Lease and any transferee under a Permitted Transfer (as defined in Section 14.1F of the Lease) and any other assignee approved in writing by Landlord, but may not be assigned or transferred to or exercised by any other assignee, sublessee or transferee under a Transfer.

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3. First Offer Expansion Right. As of the date of the Lease, Landlord owns the following buildings in the Shoreline Business Park (in addition to the Building): 1395-1397 Charleston Road, 1380 Shorebird Way, 1390 Shorebird Way, 1383 Shorebird Way, 1393 Shorebird Way and 1371-1375 Shorebird Way, Mountain View, CA (the "**Other Buildings**"). Tenant shall have the right during the initial Term (the "**First Offer Period**"), not the Extension Period or any other period after the initial Term, to expand into space in one of the Other Buildings that at the time is still owned by Landlord (the "**Expansion Space**") solely in accordance with the terms of this Section 3 and its subsections, provided that Tenant is not in default of any term or provision of the Lease. Such right shall not be applicable to (i) a renewal, expansion, assignment or sublease of any lease with any existing tenant for space in any portion of the Expansion Space, (ii) any expansion options or similar rights granted to any other tenant now existing in the Other Buildings, or (iii) any building included in the definition of Other Buildings that has been sold by Landlord,. Notwithstanding anything to the contrary in this Addendum or the Lease, if Landlord sells any or all of the buildings in definition of Other Buildings, then such buildings affected thereby shall no longer be included in the Other Buildings where there may be Expansion Space. For purposes hereof of this Section 3, a sale shall include a sale by Landlord to another party or a taking in condemnation (or an agreement in lieu thereof), or a foreclosure or trustee sale (or deed in lieu thereof).

3.1 Process. During the First Offer Period, if Tenant wants to lease additional space in the Expansion Space, Tenant shall notify Landlord of the size of the additional Expansion Space Tenant wants to lease ("**Tenant's Expansion Request**"). Tenant's Expansion Request shall remain in effect for a period of six (6) months, until Tenant accepts a Landlord's Expansion Proposal or until Tenant revokes an Expansion Request, whichever comes first. If Landlord determines that a portion of the Expansion Space matching Tenant's Expansion Request is available for lease or will be available for lease within the following six months after Landlord's receipt of Tenant's Expansion Request, Landlord will propose such space to Tenant for lease at a rental rate and other terms and conditions acceptable to Landlord in its sole and absolute discretion ("**Landlord's Expansion Proposal**"). No court, arbitrator, mediator, appraiser or other third party shall have the right to determine the terms and conditions for any lease terms in Landlord's Expansion Proposal. Tenant shall have ten (10) days within which to agree to lease such Expansion Space on the terms set forth in Landlord's Expansion Proposal or to reject such proposal. If Tenant fails to provide written notice of acceptance of Landlord's Expansion Proposal within said time period, Landlord may send a second written notice to Landlord requesting Tenant's response and if Tenant fails to provide written notice of acceptance to Landlord within two (2) business days after receipt of such second written notice, then it shall be deemed a rejection by Tenant. If Tenant provides written notice of acceptance of Landlord's Expansion Proposal but makes any change in the terms for the lease of the Expansion Space contained in the Landlord's Expansion Proposal, then it shall be deemed a rejection of Landlord's Expansion Proposal.

3.2 Effect of Rejection. If Tenant rejects (or is deemed to have rejected) the offer to lease the portion of the Expansion Space contained in the Landlord's Expansion Proposal (the "**Rejected Space**"), Landlord shall be free to lease all or any portion of the Rejected Space offered to Tenant to any other party on the terms proposed in Landlord's Expansion Proposal, or on any other terms which may be different than the terms in Landlord's Expansion Proposal, subject to the limitation in Section 3.3 below, in which case Tenant's right to lease the Rejected Space shall automatically lapse and the Rejected Space will no longer be subject to Tenant's rights to expand under Section 3 of this Addendum.

3.3 Changes in the Offer. If the difference in the stated minimum monthly rent for the term contained in Landlord's Expansion Proposal that was not accepted by Tenant is greater than ten percent (10%) of the stated minimum monthly rent payable over the term in any amended offer to lease

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from a third party, Landlord shall be obligated to offer the revised terms to Tenant and Tenant shall have five (5) days after receipt of such amended offer to accept or reject the revised terms. If Tenant rejects or does not accept the revised or new terms within the foregoing time period, Landlord shall have the right to enter a lease for all or any portion of such Expansion Space on the revised or new terms.

3.4 Election to Expand. If Tenant accepts Landlord Expansion Proposal as provided above, then the parties shall enter into an amendment of the Lease to include such Expansion Space on the terms set forth in Landlord's Proposal Notice.

3.5 Personal to Assignees. The foregoing right of first offer to lease the Expansion Space is personal to the original Tenant signing the Lease and any transferee under a Permitted Transfer and any other assignee approved in writing by Landlord, but may not be assigned or transferred to or exercised by any other assignee, sublessee or transferee under a Transfer.

4. First Offer to Purchase. If Landlord elects in its sole and absolute discretion to market the Building for sale, as a single asset and not in a pool or combination of other properties owned by Landlord or its affiliates, to an unaffiliated third party, at any time during the initial Lease Term or any extended term, and if Tenant is not then in default of the Lease beyond any applicable notice and cure periods, Landlord will first notify Tenant in writing of the price and on terms and conditions under which Landlord would sell the Building to Tenant (the "**Sale Notice**"). Landlord may market for sale the Building at any time, including while Tenant is considering to purchase based on the Sale Notice. Tenant may elect to purchase at the price and terms set forth in the Sale Notice by delivering to Landlord unconditional and irrevocable written notice of acceptance within 10 days after receipt of the Sale Notice. If Tenant does not provide such notice of acceptance within said time period or if Tenant makes any change in the purchase price or other terms in the Sale Notice, it shall be deemed an election not to purchase, and Landlord shall be free to sell the Building to any other party on the terms proposed in Landlord's Sale Notice, or on any other terms which may be different than the terms in Landlord's Sale Notice, so long as the purchase price is not 10% less than the purchase price proposed in the applicable Sale Notice, for a period of 12 months, in which case Tenant's right to purchase the Building shall lapse and be of no further force or effect. If Landlord fails to consummate such a sale or enter into a binding purchase agreement for such a sale during such period, the

rights of Tenant pursuant to this Paragraph 4 shall once again be effective. No court, arbitrator, mediator, appraiser or other third party shall have the right to determine the purchase price or other terms and conditions for purchase of the Building. Upon exercise of the option to purchase, the parties shall enter into a binding purchase agreement containing the terms set forth in the Sale Notice, which terms may include a deposit by Tenant of five percent of the purchase price in escrow with an escrow company selected by Tenant, which deposit may be non-refundable but applicable to the purchase price at closing.

The foregoing right of first offer to purchase the Building is personal to the original Tenant signing the Lease and any transferee under a Permitted Transfer and any other assignee approved in writing by Landlord, but may not be assigned or transferred to or exercised by any other assignee, sublessee or transferee under a Transfer.

Notwithstanding anything to the contrary, Tenant acknowledges and agrees that this option to purchase is subject and subordinate to any deed of trust now or hereafter placed on the Building and that any lender will not be obligated to agree to recognize such right in the event of a foreclosure, trustee's sale or deed in lieu thereof or in connection with providing any subordination, attornment and non-disturbance agreement.

CERTIFICATION

I, Randall A. Lipps, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Omnicell, Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluations; and
 - c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 7, 2003

/s/ RANDALL A. LIPPS

Randall A. Lipps
President and Chief Executive Officer

CERTIFICATION

I, Dennis P. Wolf, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Omnicell, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluations; and
 - c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) All significant deficiencies and material weaknesses, in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls over financial reporting.

Date: August 7, 2003

/s/ DENNIS P. WOLF

Dennis P. Wolf

Executive Vice President of Operations, Finance and
Administration and Chief Financial Officer

CERTIFICATION

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. § 1350, as adopted), Randall A. Lipps, the Chief Executive Officer of Omnicell, Inc. (the "Company") and Dennis P. Wolf, the Chief Financial Officer of the Company, each hereby certifies that, to his knowledge:

1. The Company's Quarterly Report on Form 10-Q for the period ended June 30, 2003, to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition of the Company at the end of the periods covered by the Periodic Report and the results of operations of the Company for the periods covered by the Periodic Report.

This certification accompanies the Periodic Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed "filed" by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

In Witness Whereof, the undersigned have set their hands hereto as of the 7th day of August, 2003.

/s/ RANDALL A. LIPPS

Randall A. Lipps
Chief Executive Officer

/s/ DENNIS P. WOLF

Dennis P. Wolf
Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to Omnicell, Inc. and will be retained by Omnicell, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.