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19 UNITED STATES DISTRICT COURT  
 20 NORTHERN DISTRICT OF CALIFORNIA  
 21 OAKLAND DIVISION

22 ORACLE USA, INC., *et al.*,

23 Plaintiffs,

24 v.

25 SAP AG, *et al.*,

26 Defendants.

Case No. 07-CV-01658 PJH (EDL)

**JOINT PRETRIAL STATEMENT**

Date: May 24, 2012  
 Time: 2:30 pm  
 Place: 3rd Floor, Courtroom 3  
 Judge: Hon. Phyllis J. Hamilton

1 Pursuant to the Court’s pretrial instructions and February 28, 2012 Order (D.I. 1110),  
2 plaintiff Oracle International Corporation (“OIC,” “Oracle,” or “Plaintiff”), and defendants SAP  
3 AG, SAP America (together “SAP”) and TomorrowNow, Inc. (“TomorrowNow” or “TN”)  
4 (collectively “Defendants”) submit this Joint Pretrial Statement.

5 **I. BRIEF DESCRIPTION OF THE SUBSTANCE OF THE CLAIMS AND**  
6 **DEFENSES**

7 **A. Oracle’s Brief Summary of Its Claims**

8 This case concerns TomorrowNow’s extensive and unlawful downloading, copying, and  
9 use of Oracle’s copyrighted software and related support materials, and the efforts by SAP AG  
10 and SAP America to leverage TomorrowNow’s unlawful conduct to harm Oracle and benefit  
11 SAP. No questions of liability remain. Defendants have admitted to making a library of  
12 *thousands* of copies of copyrighted software and *millions* of copies of downloadable software  
13 support materials registered by Oracle, and its predecessors-in-interest PeopleSoft, J.D. Edwards  
14 and Siebel Systems. Specifically, Defendants have admitted to violations of U.S. copyright law,  
15 U.S. computer fraud law, California computer fraud law, breach of contract, intentional  
16 interference, negligent interference, unfair competition, trespass to chattels, unjust  
17 enrichment/restitution and an accounting.<sup>1</sup>

18 The only issue that remains to be decided is damages. Oracle has asked the Court to  
19 clarify the scope of the new trial, and to reconsider certain issues relating to evidence of the  
20 hypothetical license measure of damages. Oracle will seek hypothetical license based damages  
21 in an amount subject to the Court’s pre-trial rulings.

22 **B. Oracle’s Statement of Relief Sought**

23 As explained in Oracle’s Motion for Clarification, Oracle seeks actual damages under the  
24 hypothetical license measure, or in the alternative under a lost profits measure. The hypothetical  
25

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26 <sup>1</sup> Amended Trial Stip. And Order No. 1 Regarding Liability, Dismissal of Claims,  
27 Preservations of Defenses and Objections to Evidence at Trial, Dkt. No. 965. *See also USA v.*  
28 *TomorrowNow, Inc.*, No. 4:11-cr-642, Plea Agreement, Dkt. No. 13; Trial Stip. And Order  
Regarding Contributory Infringement Liability, Dkt. 966.

1 license measure represents the fair market value of the licenses for the infringed PeopleSoft, J.D.  
2 Edwards, Siebel and Oracle Database software and related support materials. In addition, Oracle  
3 is entitled to recover the profits that it lost as a result of defendants' wrongful conduct or the  
4 costs it incurred. Oracle will submit evidence that SAP and Oracle value their customer  
5 relationships as 10-year profit streams because of the high likelihood that customers will renew  
6 their maintenance contracts. Mr. Meyer measured the loss of these profits for the customers TN  
7 took from Oracle. He will testify that as a result of TN's infringing business model, Oracle  
8 suffered \$120.7 million in lost profits.

9 Oracle will also seek disgorgement of Defendants' infringer's profits. Oracle's damages  
10 expert will testify that Defendants' gross revenues related to the infringement are approximately  
11 \$656 million.

12 Finally, Oracle will seek appropriate pre-judgment interest on any damages awards as  
13 allowed by law.

#### 14 **C. Defendants' Brief Summary of Their Defenses**

15 Prior to and during trial, TomorrowNow stipulated to liability as to all claims brought by  
16 Oracle, and SAP stipulated to liability for indirect copyright infringement, with Oracle dropping  
17 all other claims against SAP. *See* ECF No. 961 (Additional Trial Stipulation and Order  
18 Regarding Claims for Damages and Attorneys Fees); ECF No. 965 (Amended Trial Stipulation  
19 and Order No. 1 Regarding Liability, Dismissal of Claims, Preservation of Defenses, and  
20 Objections to Evidence at Trial); ECF No. 966 (Trial Stipulation and Order Regarding  
21 Contributory Infringement Liability). Defendants will defend against Oracle's lost  
22 profits/infringer's profits damages claim, which is the only permissible form of damages that  
23 Oracle may seek at the new trial.

#### 24 **D. Defendants' Response to Oracle's Statement of Relief Sought.**

25 The Court has repeatedly made clear that Oracle is not entitled in the new trial to seek  
26 actual damages in the form of a "hypothetical license." Specifically, in the September 1, 2011  
27 order granting Defendants' motion for judgment as a matter of law, the Court held: "Should  
28 Oracle reject the remittitur, the court will order a new trial as to actual damages in the form of

1 lost profits/infringer’s profits only.” ECF No. 1081 at 20. This order does not require  
2 clarification, nor does the same guidance in the Court’s order denying Oracle’s motion for  
3 interlocutory appeal. See ECF No. 1103 at 4 (“Should Oracle opt to reject the remittitur and  
4 proceed with a new trial on lost profits/infringer’s profits . . .”). Defendants will oppose  
5 Oracle’s motions for reconsideration and “clarification” on May 1, as ordered.

6 The new trial is limited to Oracle’s claims for lost profits and infringer’s profits, each of  
7 which claim has been defined and quantified by Oracle through extensive prior proceedings  
8 including, but not limited to, expert discovery and the first trial. As the Court has noted,  
9 Oracle’s claim for lost profits is either \$36 million or \$120 million, depending on whether Oracle  
10 can prove \$84.7 million of “ongoing impact” for seven years following the demise of  
11 TomorrowNow.” ECF No. 1082 at 19. Oracle’s claim for infringer’s profits was fixed at \$288  
12 million prior to the first trial, but “ranges down” to \$236 million based on concessions Oracle  
13 made at the first trial. *Id.* These damages claims were set forth in, among other places, the joint  
14 trial exhibit presented at the first trial as JTX-6 in response to the jury’s request.

15 Defendants will again present lost profits of \$19.3M and infringer’s profits of \$8.7M, as  
16 at the first trial. Unfortunately, in the last days Oracle has changed its damages claims numerous  
17 times in numerous respects. Defendants address these issues in detail in the Motions in Limine.

18 **II. STATEMENT OF ALL RELEVANT UNDISPUTED FACTS**

19 The following facts are undisputed, and the Parties will stipulate to them for  
20 incorporation into the trial record without the necessity of support testimony or exhibits, subject  
21 to the Court’s ruling on pending motions in limine, Oracle’s pending motions filed on April 17,  
22 2012, and other pretrial issues. Defendants contend that any facts concerning or relating to a  
23 “hypothetical” license damages measure, alleged saved development costs , alleged lost cross-  
24 sell and up-sell opportunities, and lost profits and infringer’s profits calculations other than those  
25 that were established and defined as of the time of the first trial are irrelevant, unnecessary and  
26 have no place in this section. The Parties reserve the right to update and/or eliminate facts in this  
27 section based on the Court’s rulings on the motions in limine and Oracle’s pending motions.

28 1. The Plaintiff in this case is OIC. OIC is a California corporation duly authorized

1 to do business in the State of California, with its principal place of business in Redwood City,  
2 California.

3 2. OIC is a wholly-owned subsidiary of Oracle Corporation.

4 3. OIC owns and licenses certain Oracle intellectual property including copyrighted  
5 enterprise application and Database software programs.

6 4. OIC is the owner or exclusive licensee of certain copyrights in suit, except for  
7 carve-outs in the EMEA (Europe, the Middle East and Africa) region.

8 5. As part of Oracle's acquisition of PeopleSoft, Inc., ownership of certain  
9 PeopleSoft and J.D. Edwards copyrights and other intellectual property (with carve-outs related  
10 to J.D. Edwards) was transferred to OIC on March 1, 2005.

11 6. OIC is the owner of certain PeopleSoft and J.D. Edwards intellectual property  
12 developed after March 1, 2005.

13 7. Siebel Systems, Inc. provided OIC with an exclusive license to its copyrights and  
14 other intellectual property, including rights to enforce intellectual property rights, effective  
15 March 1, 2006.

16 8. OIC is also the owner of all Siebel intellectual property developed after March 1,  
17 2006.

18 9. OIC's claims include copyright infringement.

19 10. The software products at issue here are from the PeopleSoft, J.D. Edwards, Siebel  
20 and Oracle Database software product families.

21 11. As is typical in the enterprise software industry, Oracle does not sell ownership  
22 rights to this software or the related support products Oracle provides to its paying customers.

23 12. Instead, Oracle's customers purchase licenses that grant them limited rights to use  
24 specific Oracle software programs.

25 13. Separate from the license to the underlying software, Oracle also charges an  
26 annual maintenance fee that entitles customers to receive support for the software, including  
27 fixes, patches and updates typically made available for download from Oracle's password-  
28 protected websites.

1           14.     Oracle offers licensed customers with active support contracts the option to access  
2 and download updates and support materials from Oracle’s customer support websites.

3           15.     The primary customer support websites accessed by TN were named Customer  
4 Connection (including through the Change Assistant tool) and SupportWeb (together the “Oracle  
5 Websites”).

6           16.     Customers across the United States and around the world regularly accessed and  
7 downloaded licensed materials from Oracle’s Websites.

8           17.     To access certain portions of the Oracle Websites, Oracle provides a unique  
9 username and password (“login credentials”) to licensed customers with active support contracts.

10          18.     SAP AG is a German corporation with its principal place of business in Walldorf,  
11 Germany.

12          19.     SAP AG sells enterprise software applications programs that compete with  
13 Oracle’s programs.

14          20.     SAP America, Inc. is a Delaware corporation with its principal place of business  
15 in Newtown Square, Pennsylvania.

16          21.     SAP America is a wholly-owned subsidiary of SAP AG.

17          22.     TN is a Texas corporation with its principal place of business in Bryan, Texas.

18          23.     TN became a wholly-owned subsidiary of SAP America and an indirect wholly-  
19 owned subsidiary of SAP AG on January 19, 2005.

20          24.     As of January 19, 2005, SAP AG and SAP America (together “SAP”) became the  
21 parent companies of TN.

22          25.     TN supported PeopleSoft and J.D. Edwards products when acquired by SAP.

23          26.     TN expanded its service offerings to the Siebel line of products.

24          27.     As the parent corporation, SAP had ultimate control over TN.

25          28.     Two months after acquiring TN, SAP AG Board member Leo Apotheker told  
26 SAP America president Bill McDermott to “inflict some pain on oracle” by “clos[ing] a few TN  
27 deals at extraordinary conditions.”

28          29.     The Parties incorporate here by reference the stipulations reached in Trial

1 Stipulations 1-5 in connection with the first trial in this matter. *See* ECF Nos. 910, 911, 912, 965  
2 and 966.

3 30. TN copied the PS\_HOME component, database component, or both components  
4 of PeopleSoft CRM, EPM, FSCM, HRMS, SA and PeopleTools software thousands of times by  
5 backing up, “cloning” and restoring components of existing environments.

6 31. TN directed that some of its customers apply modifications distributed by TN to  
7 the environments located on the customers’ servers. TN applied to local environments on TN’s  
8 servers copies of the same modification to which it directed its customers.

9 32. TN distributed copies of some of the PeopleSoft local environments and  
10 environment backups that are or were located on TN’s systems to TN’s customers.

11 33. TN created local environments using Oracle installation software received from or  
12 through Oracle’s customers.

13 34. In some instances, TN used local environments to support multiple customers.

14 35. TN used some local environments to develop and test fixes it sent to multiple  
15 customers in some instances.

16 36. Defendants cannot identify the customer whose software was used to create at  
17 least 95 different local environments.

18 37. TN copied the Oracle Database software program versions 8.1.6, 9.2 and 10.2 by  
19 downloading the installation software for Oracle Database 8.1.7, 9.2 and 10.2 onto TN’s systems  
20 in Bryan, Texas.

21 38. TN copied the Oracle Database software program versions 8.1.6, 9.2 and 10.2 by  
22 installing the software for Oracle Database 8.1.7, 9.2 and 10.2 onto TN’s systems in Bryan,  
23 Texas.

24 39. TN made further copies of certain of the Oracle Database software programs by  
25 copying both the installation software and the installations of the Oracle Database software from  
26 one TN system to another TN system.

27 40. TN copied PeopleSoft and Siebel database components by backing up the  
28 contents of database instances containing PeopleSoft or Siebel database components and

1 restoring the contents of those instances.

2 41. Starting prior to July 2003 and continuing thereafter, TN downloaded, installed,  
3 copied and accessed versions of Oracle's Database software to provide TN maintenance services  
4 through the wind-down of TN's business in October 2008.

5 42. TN did not install or run Oracle Database software on any single processor  
6 servers.

7 43. TN installed and ran Oracle Database software on certain servers with multiple  
8 processors.

9 44. TN had on its computer systems at least 26 installations of Oracle Database  
10 software, and at least 13 copies of installation media.

11 45. TN copied millions of updates and support materials for J.D. Edwards World, J.D.  
12 Edwards EnterpriseOne, PeopleSoft and Siebel by downloading them from the Oracle Websites  
13 onto TN's computers. It then further copied certain portions of those materials between TN's  
14 servers.

15 46. TN created a software automation program, called Titan, incremented through the  
16 URL addresses for millions of support materials available on the Oracle Websites and copied all  
17 requested items to TN's computer systems.

18 47. TN counted approximately 5 million Oracle support files on its systems in 2008.  
19 At least hundreds of thousands of these files contain portions of Oracle's updates and support  
20 materials. TN made additional copies of downloaded updates and support materials for  
21 PeopleSoft software when TN applied the updates and support materials to PeopleSoft  
22 environments on TN's servers.

23 48. TN made additional copies of certain updates and support materials for J.D.  
24 Edwards World, J.D Edwards EnterpriseOne, and PeopleSoft by burning them onto CDs.

25 49. Some of these CDs were retained by TN in CD binders; others were distributed to  
26 some of TN's current and former customers.

27 50. Certain updates and support materials for J.D. Edwards World and J.D. Edwards  
28 EnterpriseOne were stored in a generic master folder until 2006, when they were copied into

1 customer-labeled folders.

2 51. Some updates and support materials for PeopleSoft were stored in a generic  
3 master folder.

4 52. Some updates and support materials were stored in folders labeled with the names  
5 of prospects who never became TN customers, or with the names of entities that were no longer  
6 TN customers.

7 53. In 2006, the J.D. Edwards World and J.D. Edwards EnterpriseOne updates and  
8 support materials kept in a prospect's folder were copied into several other customer-labeled  
9 folders.

10 54. TN modified some of the downloaded Oracle fixes and updates to be applied to  
11 J.D. Edwards World, J.D. Edwards EnterpriseOne and PeopleSoft enterprise software, made  
12 subsequent copies of the modified Oracle fixes and updates, and distributed the modified Oracle  
13 fixes and updates to some of TN's customers.

14 55. TN used information downloaded from the Oracle Websites to help support  
15 customers in competition with Oracle.

16 56. TN considered downloading updates and support materials from Oracle's  
17 websites an "urgent step" in the initial process for bringing on a customer for TN support, called  
18 "on-boarding."

19 57. TN developed software tools to automate the downloading of Oracle updates and  
20 support materials from the Oracle Websites.

21 58. These software tools, including Titan, would automatically transmit requests from  
22 TN's computer systems.

23 59. Titan would increment through the URL addresses for thousands of support  
24 materials available on the Oracle Websites and copy requested items to TN's computer systems.

25 60. TN also performed some downloading using customer login credentials to  
26 complete on-boarding for particular customers that no longer had a valid support contract with  
27 Oracle.

28 61. TN also tested Titan using login credentials from a customer that no longer had a

1 valid support contract with Oracle.

2 62. One TN employee informed management that he had legal concerns regarding  
3 TN's downloading activity.

4 63. He had concerns about whether the downloading activity could violate Oracle's  
5 Terms of Use.

6 64. This former TN employee says he was instructed to continue his downloading  
7 activity.

8 65. The former TN employee also says he was instructed not to put any concerns that  
9 he had about downloading into writing.

10 66. In their Answer, Defendants first admitted that some of their downloads were  
11 "inappropriate."

12 67. Oracle sells software licenses and support contracts for PeopleSoft, J.D. Edwards  
13 World, J.D. Edwards EnterpriseOne, Oracle Database and Siebel enterprise software.

14 68. TN contracted with a total of 358 customers to provide support for PeopleSoft,  
15 J.D. Edwards World, J.D. Edwards EnterpriseOne and/or Siebel enterprise software between  
16 2002 and 2008.

17 69. Each of TN's customers licensed PeopleSoft, J.D. Edwards World, J.D. Edwards  
18 EnterpriseOne and/or Siebel enterprise software from Oracle or from Oracle's predecessors.

19 70. Defendants were aware that each of TN's customers was a current or former  
20 customer of Oracle and/or its predecessors.

21 71. TN competed for support contracts for PeopleSoft, J.D. Edwards World, J.D.  
22 Edwards EnterpriseOne and/or Siebel enterprise software directly with Oracle.

23 72. Attachment A to Joint Trial Exhibit 2 ("JTX 2") is a list of 120 copyright  
24 registrations to which the Defendants have stipulated to copyright infringement. The parties  
25 hereby incorporate the attachment by reference.

26 73. The copyright registrations listed in JTX 2 span the following software products  
27 in the PeopleSoft product family: Human Resources Management Software, Financials and  
28 Supply Chain Management; Customer Relationship Management; Enterprise Performance

1 Management; Student Administration; PeopleTools; and their related updates and support  
2 materials.

3 74. The copyright registrations listed in JTX 2 also span software products in the JD  
4 Edwards product family, including Financial Management; Human Capital Management;  
5 Customer Relationship Management; Analytics; Asset Management; Project Management;  
6 Manufacturing; Tools and Technology; Supply Chain; and related updates and support materials.

7 75. Plaintiffs and Defendants SAP America and SAP AG are competitors in the  
8 market for development and sale of Enterprise Resource Planning (“ERP”) software and related  
9 services and support.

10 76. In June 2003, Plaintiffs initiated an unsolicited tender offer for PeopleSoft.

11 77. The acquisition of PeopleSoft by Oracle caused fear, uncertainty and doubt  
12 (“FUD”) among some PeopleSoft and JDE customers over the future of PeopleSoft and JDE  
13 products and support.

14 78. Plaintiffs acquired PeopleSoft on January 7, 2005.

15 79. During Oracle’s approximately 18 month attempt to acquire PeopleSoft, SAP saw  
16 a competitive opportunity to win PeopleSoft and JDE customers. SAP initiated a marketing  
17 program called Safe Harbor intended to take advantage of that competitive opportunity.

18 80. On January 19, 2005, SAP America acquired TN for approximately \$10 million.

19 81. TN had been in the business of providing third party support services for  
20 PeopleSoft products since early 2002, and JDE products since early January 2005.

21 82. TN had approximately 50 customers at the time of the acquisition.

22 83. On January 19, 2005, SAP announced the launch of its Safe Passage program, a  
23 successor marketing program to Safe Harbor.

24 84. SAP’s Safe Passage campaign had several components. These included a license  
25 credit of up to 75% on a customer’s previous license, to be applied against the price of a new  
26 SAP license.

27 85. One component of SAP’s Safe Passage program was the offer of support for  
28 PeopleSoft and JDE products at approximately 50% of the fee previously paid to Oracle or

1 PeopleSoft for support, with the support services to be provided by TN.

2 86. The TN support offering was an optional part of the Safe Passage program;  
3 customers could purchase SAP products without purchasing support from TN, purchase TN  
4 support without purchasing products from SAP, or continue to purchase products from SAP or  
5 support from TN without participating in the Safe Passage program at all.

6 87. In January 2006, Oracle acquired Siebel Systems, Inc. (“Siebel”).

7 88. TN began providing support to Siebel customers in September 2006.

8 89. Beginning in approximately 2004, PeopleSoft, Inc. began tracking certain  
9 customers it considered to be at risk of cancelling PeopleSoft support services.

10 90. TN wound down its business operations on October 31, 2008.

11 91. Between January 2002 and October 31, 2008, TN had a total of 358 customers, of  
12 which 16 were Siebel customers. TN signed its first Siebel customer in September 2006.

13 92. In an eWeek article entitled “Oracle Warns SAP to Step Lightly,” dated January  
14 26, 2005, Oracle CEO Larry Ellison was quoted as saying in response to SAP’s acquisition of  
15 TN, “[t]hat’s our intellectual property, and they should be cautious.”

16 93. Oracle’s acquisition of PeopleSoft significantly increased Oracle’s share of the  
17 enterprise application software market.

18 94. SAP believed that the acquired PeopleSoft customer base was vulnerable to  
19 defection from Oracle because of the Fear, Uncertainty and Doubt (“FUD”) associated with  
20 Oracle’s effort to acquire PeopleSoft.

21 95. SAP decided to acquire TN to coincide with the closing of Oracle’s acquisition of  
22 PeopleSoft.

23 96. TN continues to exist as a Texas corporation.

24 97. TN contracted with a total of 358 customers to provide support for PeopleSoft,  
25 J.D. Edwards World, J.D. Edwards EnterpriseOne and/or Siebel enterprise software between  
26 2002 and 2008.

27 98. Larry Ellison is the Chief Executive Officer of Oracle and had held this position  
28 since 1977.

1 99. Charles Phillips was the Co-President of Oracle from some time in 2004 to 2010

2 100. Safra Catz is the President of Oracle and has held this position since 2004.

3 101. Safra Catz was the Chief Financial Officer of Oracle from 2005 to 2008.

4 102. Jeff Henley is Oracle's Chairman of the Board and has held this position since  
5 2004.

6 103. On or about January 8, 2009, Defendants produced a customer report of financial  
7 information with the file name "SAP-OR 00603615\_SAP Customer Report.xls" in connection  
8 with the litigation *Oracle USA, Inc. et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL).  
9 That document, bates-stamped SAP-OR00603615, is a true copy of an SAP business record that  
10 was: (a) made at or near the time of the occurrence of the matters set forth therein, by, or from  
11 information transmitted by, a person with knowledge of those matters; (b) kept in the course of  
12 regularly conducted business activity; and (c) made by the regularly conducted business activity  
13 as a regular practice.

14 104. On or about July 15, 2009, Defendants produced a customer report of financial  
15 information with the file name "SAP Customer Report July 2009 Update.xls" in connection with  
16 the litigation *Oracle USA, Inc. et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). That  
17 document, bates-stamped SAP-OR00789887, is a true copy of an SAP business record that was:  
18 (a) made at or near the time of the occurrence of the matters set forth therein, by, or from  
19 information transmitted by, a person with knowledge of those matters; (b) kept in the course of  
20 regularly conducted business activity; and (c) made by the regularly conducted business activity  
21 as a regular practice.

22 105. On or about November 4, 2009, Defendants produced a customer report of  
23 financial information with the file name "SAP Customer Report Updated 10-30-09.xls" in  
24 connection with the litigation *Oracle USA, Inc. et al. v. SAP AG, et al.*, Case No. 07-CV-01658  
25 PJF (EDL). That document, bates-stamped SAP-OR00841587, is a true copy of an SAP  
26 business record that was: (a) made at or near the time of the occurrence of the matters set forth  
27 therein, by, or from information transmitted by, a person with knowledge of those matters; (b)  
28 kept in the course of regularly conducted business activity; and (c) made by the regularly

1 conducted business activity as a regular practice.

2 106. On or about October 9, 2008, Defendants produced a TomorrowNow customer  
3 revenues report with the file name “JD\_Customer Revenue List.xls” in connection with the  
4 litigation *Oracle USA, Inc. et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). That  
5 document, bates-stamped TN-OR 02813168, is a true copy of a TN business record that was: (a)  
6 made at or near the time of the occurrence of the matters set forth therein, by, or from  
7 information transmitted by, a person with knowledge of those matters; (b) kept in the course of  
8 regularly conducted business activity; and (c) made by the regularly conducted business activity  
9 as a regular practice.

10 107. On or about April 21, 2009, Defendants produced a spreadsheet of customer-  
11 specific and region-specific accounts receivable records with the file name “TN Customer  
12 Report-Revised.xls” in connection with the litigation *Oracle USA, Inc. et al. v. SAP AG, et al.*,  
13 Case No. 07-CV-01658 PJF (EDL). That document, bates-stamped TN-OR 06125333, is a true  
14 copy of a TN business record that was: (a) made at or near the time of the occurrence of the  
15 matters set forth therein, by, or from information transmitted by, a person with knowledge of  
16 those matters; (b) kept in the course of regularly conducted business activity; and (c) made by the  
17 regularly conducted business activity as a regular practice.

18 108. Oracle produced a financial information report in connection with the litigation in  
19 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
20 bates-stamped ORCL00400500, are a true copy of an Oracle business record that meets the  
21 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly  
22 Conducted Activity exception to the hearsay rule.

23 109. Oracle produced a financial information report in connection with the litigation in  
24 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
25 bates-stamped ORCL00278144, are a true copy of an Oracle business record that meets the  
26 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly  
27 Conducted Activity exception to the hearsay rule.

28 110. Oracle produced a financial information report in connection with the litigation in

1 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
2 bates-stamped ORCL00570177, are a true copy of an Oracle business record that meets the  
3 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly  
4 Conducted Activity exception to the hearsay rule.

5 111. Oracle produced a financial information report in connection with the litigation in  
6 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
7 bates-stamped ORCL00546412, are a true copy of an Oracle business record that meets the  
8 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly  
9 Conducted Activity exception to the hearsay rule.

10 112. Oracle produced a financial information report in connection with the litigation in  
11 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
12 bates-stamped ORCL00381655, are a true copy of an Oracle business record that meets the  
13 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly  
14 Conducted Activity exception to the hearsay rule.

15 113. Oracle produced a financial information report in connection with the litigation in  
16 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
17 bates-stamped ORCL00383943, are a true copy of an Oracle business record that meets the  
18 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly  
19 Conducted Activity exception to the hearsay rule.

20 114. Oracle produced a financial information report in connection with the litigation in  
21 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
22 bates-stamped ORCL00522556, are a true copy of an Oracle business record that meets the  
23 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly  
24 Conducted Activity exception to the hearsay rule.

25 115. Oracle produced a financial information report in connection with the litigation in  
26 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
27 bates-stamped ORCL00704378, are a true copy of an Oracle business record that meets the  
28 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly

1 Conducted Activity exception to the hearsay rule.

2 116. Oracle produced a financial information report in connection with the litigation in  
3 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
4 bates-stamped ORCL00546413, are a true copy of an Oracle business record that meets the  
5 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly

6 Conducted Activity exception to the hearsay rule.

7 117. Oracle produced a financial information report in connection with the litigation in  
8 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
9 bates-stamped ORCL00546658, are a true copy of an Oracle business record that meets the  
10 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly

11 Conducted Activity exception to the hearsay rule.

12 118. Oracle produced a financial information report in connection with the litigation in  
13 *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The materials,  
14 bates-stamped ORCL00704379, are a true copy of an Oracle business record that meets the  
15 factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly

16 Conducted Activity exception to the hearsay rule.

17 119. Defendants produced a financial information report in connection with the  
18 litigation in *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The  
19 materials, bates-stamped SAP-OR00004935-42, are a true copy of a Defendants' business record  
20 that meets the factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a

21 Regularly Conducted Activity exception to the hearsay rule.

22 120. Defendants produced a financial information report in connection with the  
23 litigation in *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The  
24 materials, bates-stamped TN-OR00639146-9157, are a true copy of a Defendants' business  
25 record that meets the factual requirements of Fed. R. Evid. 803(6) for establishing the Records of

26 a Regularly Conducted Activity exception to the hearsay rule.

27 121. Defendants produced a financial information report in connection with the  
28 litigation in *Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The

1 materials, bates-stamped TN-OR02989467, are a true copy of a Defendants' business record that  
2 meets the factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a  
3 Regularly Conducted Activity exception to the hearsay rule.

4  
5 **III. STATEMENT OF ALL RELEVANT DISPUTED FACTS WHICH  
REMAIN TO BE DECIDED**

6 The following facts are disputed and will be subject to proof at trial, subject to the  
7 Court's rulings on pending motions-in-limine, other pending Oracle motions filed on April 17,  
8 2012, and other pretrial issues. The parties have provided basic header information for various  
9 categories of facts for the convenience of the Court. However these headers are not intended to  
10 limit the applicability of those facts only to the subject matter of the header. Defendants contend  
11 that any facts concerning or relating to a "hypothetical" license damages measure, alleged saved  
12 development costs , alleged lost cross-sell and up-sell opportunities, and lost profits and  
13 infringer's profits calculations other than those that were established and defined as of the time  
14 of the first trial are irrelevant, unnecessary and have no place in this section. The Parties reserve  
15 the right to update and/or eliminate facts in this section based on the Court's rulings on the  
16 motions in limine and Oracle's pending motions.

17 **DIRECT LIABILITY - COPYRIGHT**

- 18 1. OIC is the owner or exclusive licensee of all copyrights in suit.
- 19 2. OIC is owner of all PeopleSoft and J.D. Edwards intellectual property developed  
20 after March 1, 2005.
- 21 3. As part of Oracle's acquisition of PeopleSoft, Inc., ownership of all PeopleSoft  
22 and J.D. Edwards copyrights and other intellectual property was transferred to OIC on March 1,  
23 2005.
- 24 4. PeopleSoft's and J.D. Edwards' rights to sue for pre-transfer infringement were  
25 transferred to OIC on March 1, 2005. As of March 1, 2005, OIC held the right to sue for pre-  
26 March 1, 2005 infringement of PeopleSoft and J.D. Edwards intellectual property.
- 27 5. After merging with and into OSC, the PeopleSoft and JDE entities ceased to exist.
- 28 6. OIC has rights to enforce Oracle's PeopleSoft, J.D. Edwards, Siebel copyrights to

1 protect Oracle from infringers such as Defendants.

2 7. Since March 1, 2005, OIC has held all exclusive rights under the Copyright Act  
3 for each registration described in rows 8-46, 54-55 and 57-76 of Table 1.

4 8. Since March 1, 2005, OIC has held all exclusive rights under the Copyright Act  
5 for each registration described in rows 82-86, 89-90, and 94-95 of Table 1, save for the right to  
6 distribute the registered software in Europe, the Middle East and Africa.

7 9. OIC has held all exclusive rights under the Copyright Act for each registration  
8 described in rows 5-7, 47-53, 56, 77-81, 87-88, 91-93, 96-103, and 109-111 of Table 1 ever since  
9 the registered software was first created.

10 10. Since March 1, 2002, OIC has held the right to sue for any infringement of each  
11 registration described in rows 1-4 of Table 1, regardless of when or where the infringement  
12 occurred.

13 11. Since March 1, 2005, OIC has held the right to sue for any infringement of each  
14 registration described in rows 8-46, 54-55 and 57-76 of Table 1, regardless of when or where the  
15 infringement occurred.

16 12. Since March 1, 2005, OIC has held the right to sue for any infringement of each  
17 registration described in rows 82-86, 89-90, and 94-95 of Table 1, regardless of when or where  
18 the infringement occurred, save for the right to sue for unauthorized distribution of the registered  
19 software in Europe, the Middle East and Africa.

20 13. Since March 1, 2006, OIC has held the right to sue for any infringement of each  
21 registration described in rows 104-108 of Table 1, regardless of when or where the infringement  
22 occurred, with respect to infringement that occurred on or after March 1, 2006, save for the right  
23 to sue for unauthorized reproduction, creation of derivative works, or distribution of the  
24 registered software in Europe, the Middle East and Africa.

25 14. OIC has held the right to sue for any infringement of each registration described  
26 in rows 5-7, 47-53, 56, 77-81, 87-88, 91-93, 96-103, and 109-111 of Table 1 ever since the  
27 registered software was first created.

28 15. No relevant customer's license allowed SAP or TN to reproduce, modify or

1 distribute the enterprise software copies described herein.

2 16. The limited use rights in the Oracle licenses did not allow Defendants to maintain  
3 their own copies of the software and did not allow software to be cross-used or copied between  
4 customers.

5 17. The scope of TN's use of Oracle's copyrighted materials is reflected in Plaintiffs'  
6 trial exhibit 7028.

7 18. No relevant customer's license allowed SAP or TN to reproduce, modify,  
8 distribute or publicly display the copies of updates and support materials described above.

9 19. TN was not licensed or otherwise authorized by Oracle to reproduce or distribute  
10 Oracle Database software for use in commercial and production environments. Neither SAP's  
11 Oracle Database reseller agreement nor any relevant customer's license allowed TN to reproduce  
12 or distribute the Oracle Database software copies described above.

13 20. The true number and nature of the environment backups cannot be known,  
14 because TN deleted many of the backups from TN's servers; at least some of these copies were  
15 not backed up prior to deletion.

16 21. The true number, nature and extent of the installation software copied into "CD  
17 Client Jukebox" folders on TN's servers cannot be known, because TN's regular practice was to  
18 delete the copies of installation software from TN's servers after using the installation software  
19 to create local environments.

20 22. TN used most local environments for a variety of purposes not permitted by any  
21 license, such as training and research. This allowed TN to better support its customers.

22 23. The true number and nature of copies of the updates and support materials cannot  
23 be known because TN downloaded and then deleted millions of files containing updates and  
24 support materials as part of its testing and development of automated downloading tools.

25 24. The true number of such updates and support materials cannot be known because  
26 TN later deleted the generic master library.

27 25. The true number and nature of the updates and support materials copied into  
28 multiple other customer folders cannot be known, because TN later deleted the prospects' and

1 former customers' folders.

2 26. All or substantially all fixes to which customers were directed by TN were  
3 actually distributed to customers.

4 27. TN used local environments to develop and test fixes it sent to multiple  
5 customers.

6 28. According to Oracle's expert, Kevin Mandia, TN provided over 890 fixes to TN's  
7 customers.

8 29. Each of the fixes that TN provided to TN's customers contained more than a de  
9 minimis amount of protected expression from the PeopleSoft, J.D. Edwards World and J.D.  
10 Edwards EnterpriseOne enterprise registered software.

11 30. In 2006, the J.D. Edwards World and J.D. Edwards EnterpriseOne updates and  
12 support materials kept in a prospect's folder to support other customers were copied into several  
13 other customer-labeled folders.

14 31. In analyzing the computer systems produced by TN, Oracle's expert Kevin  
15 Mandia determined that approximately 9 million Oracle support files remained on TN's systems.

16 32. Oracle's updates and support materials are copyrighted materials.

17 33. Every JD Edwards Code Change and ESU is covered by one or more copyright  
18 registration.

19 34. The true number and nature of the updates and support materials TN downloaded  
20 cannot be known, including because TN deleted millions of them without keeping backups.

21 35. For each customer or potential customer, TN generally attempted to download all  
22 customer support materials available on the Oracle Websites in that customer's product family.

23 36. TN also accessed and downloaded updates and support materials from Oracle  
24 related to Oracle's Database software.

25 37. TN's downloaded PeopleSoft updates and support materials were stored in a  
26 generic master library (folder) from at least 2002-2007.

27 38. TN employees informed management that that they believed that TN's access and  
28 downloading were illegal.



1 from TN’s business model through cooperative marketing and sales programs, like SAP’s Safe  
2 Passage program.

3 53. As parent corporations of TN, SAP AG and SAP America received a direct  
4 financial benefit from the business activities

5 54. SAP subsequently attempted to “ring-fence” the intellectual property issues with  
6 TN as a separate company as a “liability shield.”

7 55. After it acquired TN, SAP knew or should have known, through regular  
8 communications between SAP AG, SAP America and key TN personnel, of TN’s ongoing  
9 copying of Oracle software and further access to and downloading from Oracle Websites.

10 56. SAP directed TN to expand its service offerings to the Siebel line of products.

11 57. In expanding TN to the Siebel product line, SAP knew that TN required  
12 additional unlicensed copies of Oracle software and additional unauthorized access to and  
13 downloading from Oracle Websites.

14 58. SAP did not prevent TN from engaging in these activities. Instead, it encouraged  
15 TN to rapidly grow its Siebel support services business.

16 59. TN informed SAP of the headcount increases and other resources that TN would  
17 need to stop its infringing activities.

18 60. SAP refused to provide these resources, ensuring that TN would continue to  
19 infringe Oracle’s copyrights.

20 61. SAP gave substantial assistance and encouragement to TN. As examples:

21 a) SAP chose not to evaluate TN’s performance based on any Key Performance  
22 Indicator (“KPI”) related to stopping the software copying and downloading that  
23 SAP knew was occurring.

24 b) SAP created “Rules of Engagement” that approved TN’s unlicensed software  
25 copying and unauthorized downloading.

26 c) SAP supported and financed TN’s geographic and product expansion.

27 d) SAP repeatedly failed to address TN’s requests for Oracle Database software

28 licenses, despite its knowledge that TN was improperly using the Oracle Database

1 Software.

2 e) SAP engaged with TN’s salespeople and TN’s customers as part of the Safe  
3 Passage marketing program to convince customers that TN’s business model was  
4 operating legally and that they should leave Oracle. This assistance and  
5 encouragement were substantial factors in sustaining and increasing the harm that  
6 TN caused to Oracle

7 f) Though it had the right and ability to do so, SAP failed to take steps sufficient to  
8 prevent or correct the unlicensed copying and unauthorized downloading until  
9 TN’s wind-down on October 31, 2008.

10 62. SAP knew that unlicensed Oracle software copies and unauthorized updates and  
11 support materials were on TN’s systems.

12 63. SAP knew when it bought TN that TN required both to support the customers that  
13 they took from Oracle.

14 64. The SAP AG executive board of directors approved the purchase of TN with  
15 knowledge that TN’s operations created a “serious liability” that would “likely” result in legal  
16 action.

17 65. Throughout SAP and TN’s corporate relationship, SAP intended that TN act on  
18 SAP’s behalf, TN accepted that undertaking, and SAP knew of TN’s acceptance.

19 66. SAP management knew of and approved TN’s reproduction, modification,  
20 distribution and use of local environments to support multiple customers.

21 67. SAP management knew of and approved TN’s distribution of fixes to TN’s  
22 customers.

23 68. SAP management knew of and approved TN’s reproduction and distribution of  
24 Oracle Database software.

25 69. SAP management knew of and approved TN’s reproduction, modification,  
26 distribution, public display and use of Oracle’s updates and support materials.

27 70. As examples of SAP’s ultimate control over TN: SAP changed TN’s management  
28 and board and controlled TN’s headcount and purchasing decisions, including for computer

1 hardware and software.

2 71. SAP acquired TN to “inflict pain” on Oracle.

3 72. It intended to use TN to harm Oracle’s share price.

4 73. SAP used TN’s illegal business as a “strategic weapon” to take customers and  
5 market share from Oracle, all to SAP’s benefit.

6 74. SAP knew that TN would illegally download from Oracle Websites and illegally  
7 copy and use Oracle’s software in pursuit of this goal.

8 75. SAP made it TN’s highest priority to quickly expand these illegal activities  
9 around the world.

10 76. SAP AG, through its subsidiary SAP America, bought TN to take away Oracle’s  
11 support contract revenue stream, lower Oracle’s share price, get a “public relations win” and  
12 disrupt Oracle’s business operations.

13 77. TN ceased operation on October 31, 2008, but continues to exist as a Texas  
14 corporation.

15 78. On May 25, 2011 at the SAP Shareholders’ Meeting, Hasso Plattner, the  
16 Chairman of SAP AG’s Supervisory Board, said, “SAP accepted responsibility on the advice of  
17 our lawyers primarily in order to be able to concentrate on the question of damages in the civil  
18 proceedings in the USA.” Mr. Plattner also claimed the press, “often interpreted this procedural  
19 admittance, wrongly, I might add, to mean that the SAP executive board had admitted it had  
20 known about TomorrowNow’s breaches of copyright in the USA,” and that in fact “the ongoing  
21 investigations have not uncovered any signs that any duty was breached.”

22 79. On May 25, 2011 at the SAP Shareholders’ Meeting, the co-CEO and member of  
23 the SAP AG Executive Board Bill McDermott claimed that SAP decided to admit “vicarious and  
24 contributory liability” for copyright infringement as a tactical maneuver “to limit the litigation to  
25 the question of damages, which we hoped would result in a lower amount of damages.”

26 **DAMAGES**

27 80. When Oracle acquired PeopleSoft in 2005, Oracle also made a “public  
28 commitment to PeopleSoft customers” that they would “not be forced to convert to Oracle”

1 products, and that Oracle would “increase the value of [their] PeopleSoft investments through  
2 ongoing enhancements and maintenance delivered by one of the largest software development  
3 organizations in the world.”

4 81. Oracle finalized its acquisition of PeopleSoft on January 7, 2005 and had a much-  
5 publicized public unveiling by its highest executives of its going-forward plans for PeopleSoft on  
6 January 18, 2005.

7 82. The timing of SAP’s acquisition of TN and announcement of Safe Passage was  
8 designed by SAP to undermine Oracle’s prior day’s presentation on its going-forward plans for  
9 PeopleSoft.

10 83. The date of the hypothetical negotiation to arrive at the fair market value of use  
11 license for PeopleSoft and J.D. Edwards software is the day SAP acquired TN, January 19, 2005.

12 84. With regard to the hypothetical license, the parties dispute whether Plaintiffs and  
13 SAP would ever have agreed to a license and whether that matters. Defendants contend the  
14 parties would not have agreed to a license.

15 85. The parties dispute the form a hypothetical license would have taken. Plaintiffs  
16 contend that the license would have been a fully paid-up, lump sum license. Defendants contend  
17 that the license would have taken the form of a running royalty.

18 86. Defendants’ damages expert and Plaintiffs agree that the 2005 hypothetical  
19 negotiation would have been between OIC and SAP. Specifically, Defendants’ damages expert  
20 stated that “SAP would have been negotiating to acquire the License . . . .”

21 87. The parties dispute how the hypothetical license would have been calculated.

22 88. For example, as one input in their valuation, Plaintiffs consider the price Plaintiffs  
23 paid for the intellectual property at issue as part of its acquisition of PeopleSoft and Siebel  
24 Defendants contend that the price to acquire these companies is not an appropriate reference in  
25 measuring the value of use.

26 89. Plaintiffs contend that the fair market value of the infringed copyrights is not  
27 determined with a focus on the actual number of customers obtained by TN, but instead should  
28 focus on SAP’s and Oracle’s expectations and projections at the time the parties would have

1 negotiated the license (January 2005). Defendants contend that the actual number of customers  
2 and their associated TN revenue should be the only relevant metric on which the hypothetical  
3 license must be measured, and that Oracle and SAP expectations, and the projections SAP had in  
4 hand and had created as of the negotiation date are not relevant.

5 90. Plaintiffs contend that saved acquisition costs are an appropriate factor to consider  
6 in determining the fair market value for Plaintiffs' copyright claim and of their unjust enrichment  
7 damages. Defendants disagree.

8 91. As of January 19, 2005, Oracle and SAP were direct competitors in the market for  
9 development and sale of enterprise application software and related services and support, with  
10 SAP the historically dominant seller.

11 92. SAP wanted to stop Oracle's traction and decrease Oracle's market share.

12 93. SAP knew it needed an immediate and uniquely attractive alternative to staying  
13 with Oracle to take advantage of that vulnerability.

14 94. In order to take advantage of the perceived vulnerability, SAP searched for  
15 existing alternatives and identified TN.

16 95. TN was the only viable and immediately available company providing  
17 comparable alternative support on PeopleSoft products.

18 96. It did so to take maximum advantage of its perceived opportunity to decrease  
19 Oracle's market share.

20 97. Acquiring TN on January 19, 2005 and immediately offering TN's support to the  
21 vulnerable PeopleSoft customer base was highly desirable to SAP.

22 98. For example, in SAP's January 19, 2005 announcement to analysts regarding the  
23 TN acquisition, SAP also announced TN's role in the simultaneously created SAP "Safe  
24 Passage" program.

25 99. Plaintiffs have marketing programs designed to win SAP customers, including a  
26 program called OFF-SAP that was introduced in approximately June 2005.

27 100. By acquiring TN and continuing its support delivery model, SAP avoided  
28 spending billions of dollars to independently develop products similar to the Oracle-owned

1 materials TN infringed as part of attracting and supporting customers.

2 101. SAP also avoided the significant delays and inevitable missteps associated with  
3 such a development effort.

4 102. In assessing whether to acquire TN and how to best use TN, SAP understood that  
5 the majority of PeopleSoft customers were users of PeopleSoft's HRMS and Financial product  
6 suites.

7 103. In late December 2004, while SAP was negotiating to acquire TN, SAP forecasted  
8 and expected \$897 million in financial benefits in the years 2005-2007 from owning TN.

9 104. These included forecasted support revenues and forecast up-sales and cross-sales  
10 to TN customers.

11 105. The forecast acknowledged SAP's initial goal of targeting joint SAP and  
12 PeopleSoft HRMS customers and joint J.D. Edwards and SAP customers.

13 106. The creator of the forecast, SAP Vice President of Service Solution Management  
14 - Global Services and Support, Thomas Ziemer, attempted to be reasonable in his estimation.

15 107. Ziemer sent the forecast to several SAP Executive Board members, none of  
16 whom thought it unreasonable. In fact, several members of SAP's Executive Board of Directors  
17 gave extensive guidance and input into these projections.

18 108. SAP set a goal to convert at least 50% of PeopleSoft and J.D. Edwards customers  
19 to SAP.

20 109. SAP Executive Board member and Chief of SAP's Products and Technology  
21 Group, Shai Agassi, thought SAP could have done even better.

22 110. In addition, in a January 19, 2005 analyst call, SAP spoke of its plans to initially  
23 target the estimated 4,000 joint SAP and PeopleSoft/J.D. Edwards customers, of its anticipated  
24 expansion of its TN service offering globally, of its expectation that its Safe Passage offerings  
25 would significantly accelerate the migration to SAP by lowering the PeopleSoft customer's total  
26 cost of ownership, and of its pledge to scale TN's offering by providing additional resources to  
27 meet expected significant demand.

28 111. Also in the January 19, 2005 analyst call, SAP explained that from a financial

1 perspective, “the rationale is more around the value . . . that these customers represent as a  
2 potential future set of customers for SAP applications. And it’s -- the value was estimated by  
3 Oracle . . . as \$10 billion.”

4 112. SAP contemporaneously forecasted other benefits from being able to offer TN’s  
5 claimed comparable or better than Oracle support at half price or less on January 19, 2005.

6 These benefits included:

- 7 a) adversely impacting Oracle’s share price,
- 8 b) adversely impacting Oracle’s expected return on investment for its PeopleSoft  
9 acquisition,
- 10 c) adversely impacting Oracle’s ability to pay for the PeopleSoft acquisition out of  
11 cash flow,
- 12 d) diminishing Oracle’s ability to deliver as promised on the PeopleSoft acquisition,
- 13 e) taking support revenue away from Oracle and thus siphoning off Oracle’s ongoing  
14 product development research and development (“R&D”) funding, discrediting  
15 Oracle’s efforts to create a next-generation applications platform,
- 16 f) and distracting Oracle from its core business by forcing Oracle to protect its  
17 maintenance stream rather than sell software, all of which would potentially  
18 impact Oracle’s pricing and market position.

19 113. Defendants intended and marketed that TN could provide support for all current  
20 and retired PeopleSoft Enterprise releases, as well for all versions and products of J.D. Edwards  
21 World and Enterprise One, and that it could do so globally.

22 114. As of January 19, 2005, Oracle had just paid an up-front lump-sum amount of  
23 \$11.1 billion to acquire PeopleSoft.

24 115. Further, “Oracle had just fought for almost two years for the right to purchase  
25 [PeopleSoft which] was critical to Oracle’s expansion in the applications business dominated by  
26 SAP.”

27 116. Oracle acquired PeopleSoft in order to gain PeopleSoft’s customer base.

28 117. It expected to continue getting lucrative support revenue from that base, which

1 was essential to funding Oracle's ongoing R&D.

2 118. The R&D would fund PeopleSoft-related support and products.

3 119. Oracle also expected other important benefits from the PeopleSoft customer base.

4 120. Oracle expected to up-sell and cross-sell additional products.

5 121. Oracle expected to benefit from PeopleSoft's existing and in process application  
6 software technology and intellectual property.

7 122. Oracle expected through these benefits and others to become more competitive  
8 against SAP.

9 123. Oracle alone had the rights to leverage the PeopleSoft and J.D. Edwards  
10 copyrighted materials it acquired to support the PeopleSoft customer base.

11 124. Based on Oracle's contemporaneous pre-acquisition model for PeopleSoft, Oracle  
12 expected an annual PeopleSoft support customer attrition rate of 3.5%, average annual support  
13 fees of \$125,000 to \$130,000, an incremental license purchase rate of 14% of the support  
14 customer base, average selling price of an incremental license of \$130,000, average selling price  
15 of a new license of \$300,000, and annual support fees at a rate of 22% of license revenue.

16 125. At the time of the PeopleSoft acquisition, Oracle recognized intangible assets  
17 acquired of \$6.5 billion in goodwill, and \$3.4 billion in other intangible assets, which included a  
18 value of \$2.1 billion for existing maintenance agreements and customer relationships, and \$250  
19 million for new customer relationships acquired.

20 126. A license to SAP for TN's use of Oracle's just-acquired PeopleSoft software and  
21 support materials, would have endangered Oracle's achievements of all of its PeopleSoft  
22 acquisition goals.

23 127. "Oracle ha[d] never given any entity a license to 'copy Oracle's application  
24 software and support materials in order to create their own fixes, patches or updates for  
25 customers.'" "

26 128. The hypothetical license has "nothing in common with any agreement Oracle has  
27 with any business Partner," and "the parties have no history of negotiating similar licenses for  
28 the use of comparable enterprise software applications."

1           129. Oracle would have understood and expected the license would “cover any  
2 ‘attempt [by Defendants] to convert the customer to a competing software platform and . . . daily  
3 wholesale copying and cross-use of Oracle’s application software and support materials.’”

4           130. Oracle would have understood and expected that the “license would have given  
5 Defendants free rein ‘to use Oracle applications and service support intellectual property to  
6 aggressively compete against Oracle for applications customers and market share.’”

7           131. Oracle would have expected that the hypothetically negotiated license would  
8 undermine one of the purposes of its PeopleSoft acquisition, which was to expand its application  
9 business such that it could equal or surpass SAP.

10          132. Oracle would have viewed the license as creating a “zero-sum” situation: any  
11 customer lost by Oracle would be a customer gained by SAP.

12          133. With a license to its arch rival and powerful competitor SAP at this critical time,  
13 Oracle would have expected the potential loss of thousands of PeopleSoft customers and not to  
14 have enjoyed most of the above-described benefits Oracle anticipated from the PeopleSoft  
15 acquisition.

16          134. Oracle also would have expected to have to spend significant sums and time in  
17 efforts to prevent its PeopleSoft customers from leaving to TN and/or SAP.

18          135. If 30% of the approximately 10,000 acquired PeopleSoft support customers would  
19 be lost to SAP, Oracle executives would consider the fair market value of that loss to be  
20 approximately \$3.33 billion, or 30% of PeopleSoft’s acquisition price.

21          136. Even though they are direct competitors, Oracle and SAP have a reseller  
22 agreement for SAP to sell Oracle’s database software, which has resulted in billions of dollars in  
23 sales.

24          137. Oracle executives would have been willing to offer SAP a license to use the  
25 relevant software here, but only for a fair price.

26          138. The fair market value to Oracle and SAP of TN’s use of Oracle’s PeopleSoft and  
27 J.D. Edwards copyrighted software and support materials is \$2 billion.

28          139. The date of the hypothetical negotiation to arrive at the license for the fair market

1 value of use of Siebel IP is the day TN first supported a Siebel customer, September 29, 2006.

2 140. Through its acquisition of Siebel, Oracle had become the leader in Customer  
3 Relationship Management (“CRM”) software applications and also SAP’s undisputed main  
4 enterprise application software competitor.

5 141. SAP estimated that SAP’s “competitive edge diminished by 40% post SEBL  
6 acquisition.”

7 142. SAP wanted to stop Oracle’s ever-increasing competitive traction from its  
8 enterprise application software acquisitions.

9 143. Oracle’s pending acquisition of Siebel prompted SAP’s Executive Board to  
10 expand its Safe Passage program to include offerings for Siebel customers.

11 144. SAP believed that the acquired Siebel customer base was vulnerable to defection  
12 from Oracle.

13 145. By including Siebel in its Safe Passage program, SAP was able to quickly offer  
14 them a uniquely attractive alternative to staying with Oracle to take advantage of that perceived  
15 vulnerability.

16 146. SAP believed that being able to offer Oracle’s just acquired Siebel customers the  
17 claimed comparable or better support at half price or less through TN would provide SAP many  
18 benefits.

19 147. These benefits included the ability to grow maintenance revenue for TN, to create  
20 future SAP license revenue, to take away lucrative and needed maintenance revenue from Oracle  
21 and to otherwise distract Oracle.

22 148. A contemporaneous SAP Business Case for providing TN support for Oracle-  
23 acquired Siebel customers asserted that the Siebel customer base consisted of 4,000 customers,  
24 including a large number of joint SAP/Siebel customers, and presented a “huge market  
25 opportunity” for SAP.

26 149. SAP forecasted and expected to win 40, 100 and 200 customers of TN for Siebel  
27 support between 2006 and 2008 and projected TN revenues would grow from €1.5 million in  
28 2006 to €5.8 million in 2007 to €11.9 million in 2008 on which TN would earn a 32% margin.

1           150. In another contemporaneous SAP forecast (dated October 2005) titled “Siebel  
2 Safe Passage Program Playbook,” SAP stated it believed it had the opportunity to migrate at least  
3 300 Siebel customers to mySAP CRM.

4           151. By expanding TN’s support delivery method to Siebel, SAP could avoid spending  
5 billions of dollars to independently develop products similar to the Siebel-owned materials that  
6 TN infringed as part of attracting and supporting customers. SAP could also avoid the  
7 significant delays and inevitable missteps associated with such a development effort.

8           152. Oracle had just paid an up-front lump sum of \$6.1 billion to acquire Siebel.  
9 Among the key assets acquired was Siebel’s lucrative support revenue.

10          153. This revenue was essential to funding Oracle’s ongoing R&D, including for  
11 Siebel-related product and support development.

12          154. At the time of the Siebel acquisition, Oracle recognized intangible assets acquired  
13 of \$2.5 billion in goodwill, and \$1.6 billion in other intangible assets.

14          155. These assets included a value of \$808 million for existing maintenance  
15 agreements and customer relationships.

16          156. The Siebel products Oracle acquired were considered “best in breed” in the  
17 industry.

18          157. Siebel had spent at least hundreds of millions of dollars developing them.

19          158. Oracle alone had the rights to leverage the Siebel copyrighted materials it  
20 acquired to support the Siebel customer base.

21          159. Oracle’s goals for the Siebel acquisition included obtaining Siebel’s customer  
22 base, being able to sell that base other Oracle products, using the valuable maintenance support  
23 stream to fund future R&D, gaining additional traction against SAP and establishing a leadership  
24 position in the CRM market.

25          160. SAP’s backing of TN’s support for Siebel applications, combined with TN’s 50%  
26 off or more Oracle support pricing, made TN a uniquely attractive third party alternative support  
27 provider to Oracle’s just-acquired Siebel customers.

28          161. That the hypothetically negotiated license would allow TN to leverage Oracle’s

1 proprietary Siebel software and support materials would make that offering all the more  
2 attractive.

3 162. Oracle was aware of Siebel's level of source code protection and of SAP's and  
4 TN's inability to convert as many acquired PeopleSoft customers as expected by SAP, Oracle  
5 and the analysts in 2005.

6 163. A license to SAP for TN's use of Oracle's just-acquired Siebel software and  
7 support materials would endanger Oracle's achievement of its acquisition goals for Siebel.

8 164. With a license to its arch rival and powerful competitor SAP, Oracle would have  
9 expected to lose many Siebel customers and not to have enjoyed many of the above-described  
10 anticipated benefits of the Siebel acquisition.

11 165. Oracle also would have expected to have to spend significant efforts and costs to  
12 prevent its acquired Siebel customers from leaving to TN and/or SAP.

13 166. The fair market value to Oracle and SAP of TN's use of Oracle's Siebel  
14 copyrighted software and support materials is at least \$100 million.

15 167. Oracle's Database software was "critical" to TN's provision of maintenance  
16 services.

17 168. SAP and TN knew they did not have, and needed, a license from Oracle in order  
18 for TN to access, copy and/or use Oracle's Database software and related materials in the manner  
19 it did.

20 169. TN could not have offered the advertised "comparable" or "superior" support it  
21 did, at the price it did, in the manner it did, and in the time period it did, to Oracle's PeopleSoft,  
22 J.D Edwards, and Siebel applications customers without the copies of the Oracle Database  
23 programs it used.

24 170. In addition to the 71 unique customers related to TN local environments running  
25 Oracle Database software, at least 43 additional PeopleSoft customers received fixes that were  
26 developed and/or tested on an Oracle Database software instance associated with a different  
27 customer's local environment on TN's servers.

28 171. It is more likely than not that every one of TN's 172 PeopleSoft HRMS customers

1 received support delivered, at least in part, through TN's use of Oracle Database software for  
2 which TN had no commercial license.

3 172. TN repeatedly asked SAP for help regarding obtaining such a license for Oracle  
4 Database Software.

5 173. SAP never did secure an appropriate Database software license from Oracle.

6 174. No standard Database software license Oracle has ever issued would permit a  
7 licensee to use – or to have its third party support vendor use – Oracle's Database software in the  
8 manner in which TN did.

9 175. SAP and Oracle have an agreement that allows SAP to develop SAP database  
10 applications and resell Oracle's Database software to SAP customers. That contract does not  
11 permit TN's use of Oracle's Database software.

12 176. TN used Oracle Database software for at least 130 local environments accessed  
13 on TN's internal systems.

14 177. Some customers had more than one environment associated with them.

15 178. Based on the servers used by TN, Oracle would price a license for TN at six  
16 processors.

17 179. The fair market value to Oracle and SAP of TN's use of Oracle's Database  
18 software is \$55.6 million.

19 180. The sale of any Oracle Database software licenses to TN would have little, if any,  
20 impact on Oracle's costs.

21 181. TN's use of Oracle Database software was not consistent with the rights granted  
22 under a standard database license.

23 182. The Standard Edition of Oracle Database software can only be used on single  
24 processor machines. Machines with two or more processors require Enterprise Edition.

25 183. As a benchmark for pricing a hypothetical license to TN for its use, Oracle's list  
26 price per processor per customer for the basic Enterprise Edition license and support between  
27 2004 and 2008 was \$40,000/processor for the license and \$8,800/processor per year for support.

28 184. Defendants avoided significant research and development costs, as well as risks

1 and delays associated with creating the PeopleSoft, J.D. Edwards, and Siebel software  
2 applications and support materials used by TN. The parties would have been cognizant of these  
3 costs, risks and delays in the hypothetical license negotiation.

4 185. Conservatively, Defendants avoided billions of dollars in development costs and  
5 avoided years of delays to market. The parties would have had this in mind during the  
6 hypothetical license negotiation.

7 186. Defendants also avoided incurring the licensing costs and support fees to use  
8 Oracle's Database software as TN did in the servicing of its customers.

9 187. Conservatively, those avoided database licensing and support costs are \$55.6  
10 million. The parties would have had this in mind during the hypothetical license negotiation.

11 188. Between 2002 and October 31, 2008, TN had over 358 PeopleSoft, J.D. Edwards  
12 and/or Siebel support customers, approximately 300 of which it acquired after SAP acquired TN.

13 189. From 2005 (when SAP acquired TN) through 2008, SAP received \$899.6 million  
14 in revenue from sales of SAP software licenses, support, training and other services to 86 SAP  
15 customers after the customer started receiving support services from TN. SAP had made more  
16 sales to these 86 customers since 2008, and has made sales to other TN customers.

17 190. Of the 358 TN customers, at least 86 were customers that purchased TN support  
18 services and SAP products or services simultaneously, or that were existing TN customers at the  
19 time that they purchased new SAP software.

20 191. Additional customers may also have purchased TN support services and migrated  
21 to SAP via their parent companies' SAP volume contracts.

22 192. SAP products and services sold to these customers included both the sale of SAP  
23 software to replace the customers' PeopleSoft, J.D. Edwards or Siebel applications, as well as  
24 sales of other non-replacement SAP products and services.

25 193. The parties dispute the extent to which the alleged actions caused Plaintiffs to lose  
26 support revenue. Plaintiffs contend that, but for TN, most or all of the customers at issue would  
27 have renewed their support services agreements with Plaintiffs consistent with Plaintiffs' average  
28 renewal rate for its entire customer base. Defendants contend that customers cancelled the

1 agreements for reasons unrelated to TN and would have done so even absent TN.

2 194. The parties dispute the extent to which alternatives to TN existed to customers  
3 who wished to cancel their support agreements with Plaintiffs.

4 195. For a support option other than TN to be a viable alternative to PeopleSoft or  
5 Oracle support, the option had to be known to the customer, available on their application(s) in  
6 their geography, and not unacceptably risky by virtue of size, reputation, insufficient operating  
7 history or lack of financial stability or adequate backing.

8 196. Self support was rarely an option considered or used by customers leaving Oracle  
9 support.

10 197. The parties dispute the extent to which the alleged actions caused the 86  
11 customers to purchase products or services from SAP. Defendants contend that most or all of the  
12 purchases were made for reasons unrelated to TN and/or the alleged actions, and would have  
13 been made even in the absence of TN and/or the alleged actions

14 198. The parties dispute the extent to which the alleged actions were reasonably related  
15 to the 86 customers who purchased products or services from SAP while they were with TN.  
16 Defendants contend that most or all of the purchases were made for reasons unrelated to TN  
17 and/or the alleged actions, and would have been made even in the absence of TN and/or the  
18 alleged actions

19 199. Defendants' recruitment of customers away from Oracle caused Oracle to lose  
20 support and license revenue for those customers.

21 200. Customers switch from either Oracle or SAP for various reasons. Some reasons  
22 include the total cost of ownership, reputation, because of a merger or acquisition, or the desire  
23 to standardize on one ERP vendor's software. Customers rarely cancel their support services  
24 with either Oracle or SAP. Reasons for cancellation include cost or a lack of perceived value  
25 from the service.

26 201. Once a customer was dislodged from PeopleSoft or Oracle by TN, it usually  
27 resulted in a permanent or long term support revenue loss to Oracle because of financial and  
28 political obstacles for that customer to return to Oracle for support.

1           202. Any TN customer who also transitioned to SAP applications was even harder for  
2 Oracle to get back because of costs and time expended on the product switch.

3           203. If TN did not exist (or if TN were not providing illegal support), those customers  
4 lost to TN more likely than not would have stayed with PeopleSoft and/or Oracle.

5           204. One or more of the following facts support this conclusion:

6           a) Absent its infringement of Oracle's software and support materials, TN would not  
7 have been able to market the ability to provide comparable or better service at a  
8 significantly lower price than first PeopleSoft and then Oracle.

9           b) Former TN customers have confirmed that TN customers would not have left  
10 PeopleSoft or Oracle support if TN did not offer support comparable to or better  
11 than the vendor.

12           c) Most TN customers would not have gone to TN if TN did not offer 50% or more  
13 off vendor support.

14           d) Former TN customers have confirmed that no TN customers would have chosen  
15 TN if that customer had known that TN provided support through misuse of  
16 PeopleSoft and/or Oracle software and support materials.

17           e) The acquisition of TN by SAP made TN a more legitimate, more financially  
18 viable, and less risky option for customers.

19           f) Throughout the entire time period that TN provided third party vendor support for  
20 PeopleSoft, J.D. Edwards and Siebel products, the market for support of these  
21 products was primarily a two supplier market consisting of TN and Oracle.

22           g) Most of the other third party service providers for the relevant products who  
23 operated at any time TN did are no longer in business or only offer consulting  
24 services that differ from the level of support that Oracle or TN provided.

25           h) Rimini Street, a third party support vendor for the applications at issue beginning  
26 in 2006, was founded by the former President of TN. It was described as having  
27 the exact same business model as TN. Oracle has filed suit against Rimini Street  
28 alleging copyright infringement among other things.

1 i) While TN was in business, Oracle, TN and SAP all viewed TN as Oracle's only  
2 significant competition for support on PeopleSoft, J.D. Edwards and Siebel  
3 applications.

4 j) TN customers did not know of and/or did not seriously consider leaving  
5 PeopleSoft or Oracle support for any other third party support provider other than  
6 TN when they left for TN.

7 k) The acquired PeopleSoft customers who stayed with Oracle, post-acquisition,  
8 reported increased satisfaction with the support services provided.

9 205. For PeopleSoft and Oracle, prior to 2007 or 2008, the only third party vendor  
10 whom Oracle's applications customers considered a comparable support provider was TN.

11 206. Defendants' illegal acts, except where otherwise excluded based on evidence  
12 Oracle's damages expert will explain at trial, caused Oracle to lose the customers who went to  
13 TN. Otherwise, Oracle would have retained them at its annual retention rates.

14 207. Oracle has suffered lost support profits damages beginning on the date that each  
15 TN customer cancelled its contract, or contracts, with Oracle and switched that support to TN.

16 208. Those damages include standard annual contractual increases or inflationary  
17 increases.

18 209. The damages are subject to adjustments for historic incremental profit margins  
19 and certain Oracle inter-company payments.

20 210. Except in certain customer-specific circumstances, a customer's damages end 10  
21 years after Oracle's acquisition of PeopleSoft, based on Oracle and SAP evidence on the  
22 expected life of a support customer.

23 211. Oracle's lost support profits are at least \$120.7 million for Plaintiff OIC.

24 212. Because SAP operated TN as a loss leader, and because of costs associated with  
25 this lawsuit and its closure by SAP, TN had minimal revenue and no profits.

26 213. TN's "comparable" or "better" support at low, or often no, cost to eventual SAP  
27 applications customers, was a factor in their decisions to purchase SAP products and services.

28 214. SAP, the largest and most experienced enterprise application software vendor,

1 premised its use of TN as the “cornerstone” of its Safe Passage marketing program based on its  
2 expectation that TN would drive just such SAP cross-sales and up-sales.

3 215. After appropriate adjustments based on, *e.g.*, evidence that TN was not a factor in  
4 a customer’s SAP purchasing decision, and after deducting SAP’s costs and applying a 50%  
5 profit margin, the infringers’ profits damages from SAP are \$288.6 million.

6 216. Throughout SAP TN’s operating years, SAP advertised, and touted internally and  
7 externally, that TN was the “cornerstone” of the Safe Passage program.

8 217. SAP’s infringer’s revenues are at least, approximately \$615 million.

9 218. SAP willfully infringed Oracle’s copyrights.

10 219. Defendants’ conduct, described above, was malicious, oppressive or in reckless  
11 disregard of Oracle’s rights. For example:

12 a) TN created a sophisticated software automation program, called Titan, that  
13 intentionally downloaded approximately a million files using the login credential  
14 of a former Oracle employee and TN continued to test and use the Titan program  
15 even after it learned it crashed Oracle’s systems.

16 b) Defendants continued to provide support services to customers and grow TN’s  
17 support business, even encouraging customers to serve as references for one  
18 another, with knowledge that TN’s support model relied on violation of those  
19 customers’ license agreements with Oracle.

20 c) Defendants continued to make and use illegal copies of Oracle software even after  
21 the start of this litigation.

22 d) Defendants knowingly destroyed or altered evidence important to Oracle’s proof  
23 of Defendants’ illegal conduct.

24 220. TN served as a “strategic weapon” against Oracle, designed to “hurt Oracle” and  
25 fuel SAP’s “Oracle disruption campaign.”

26 221. SAP boasted they left a “ticking time bomb” for Oracle through SAP’s acquisition  
27 of TN.

28 222. Defendants acted in the face of known risks that their actions would violate

1 Oracle's rights under federal law.

2 223. For example, SAG AG approved the acquisition of TN despite its knowledge that  
3 TN was servicing its customers with intellectual property that resided on TN's own computers  
4 and that TN's operating issues presented the risk of "serious liability."

5 224. As another example, TN downloaded software and support material from Oracle's  
6 websites without regard for rules and restrictions – even after TN employees informed  
7 management that they believed that their access and downloading were illegal.

8 225. TN ceased actively supporting customers on October 31, 2008, and as to date has  
9 not resumed those support activities.

10 226. In November 2004, PeopleSoft circulated internally a document titled "Third  
11 Party Support Vendor Questions" that purported to be a series of "questions customers should  
12 ask potential third-party support vendors prior to dropping enterprise software support" and  
13 included the following questions under the section titled "Intellectual Property and  
14 Confidentiality Issues":

- 15 a. "Have you taken and used software updates downloaded from an enterprise  
16 software vendor by a customer and applied them to other customers? Have you  
17 applied updates to those that are no longer receiving support from the creating  
18 vendor?"
- 19 b. "Have you taken and used software upgrade scripts downloaded from an  
20 enterprise software vendor by a customer and applied them to multiple  
21 customers?"
- 22 c. "Have you used an end customer ID to access an enterprise software vendor's  
23 website to download software?"
- 24 d. "Are you offering me indemnification that the fixes you provide do not infringe  
25 upon the intellectual capital of the vendor?"
- 26 e. "What mechanisms do you have in place to ensure that intellectual capital abuses  
27 don't take place?"

28 227. On December 7, 2004, Nancy Lyskawa indicated that "My team is actually  
leading the competitive/marketing strategy on the emerging third party support providers.  
[Redacted sentence] We are very aware of TomorrowNow and have quite a bit of information on  
them."

228. Prior to acquiring PeopleSoft, Oracle asked PeopleSoft to provide them with the  
number of customers lost to the third party emerging market, including the names of the third

1 party competitors and lost revenue dollars.

2 229. An Oracle document created in 2005, entitled “Oracle Support Exclusive  
3 Advantages Versus Third Party Vendor Support” states, “While Oracle recognizes that vendors  
4 can legitimately offer competitive support services for PeopleSoft products; we are concerned  
5 about the potential violation of our intellectual property rights and the terms of our contracts.  
6 We are investigating this matter vigorously and will pursue any and all means at our disposal to  
7 protect the company’s assets.”

8 230. In June 2003, Plaintiffs initiated a hostile acquisition of for PeopleSoft.

9 231. Plaintiffs’ attempt to acquire PeopleSoft caused PeopleSoft to initiate a lawsuit  
10 against Plaintiffs. It was also the subject of an anti-trust action by the Department of Justice.

11 232. The acquisition attempt also caused concern among PeopleSoft and JDE  
12 customers over the future of PeopleSoft and JDE products and support, and whether customers  
13 may be forced to migrate to a new product line called Fusion that Plaintiffs were developing.

14 233. The customer fear, uncertainty and doubt over Oracle’s acquisition of PeopleSoft  
15 was created by many sources, including Oracle’s arch rival, SAP and other Oracle competitors,  
16 each of which hoped to benefit from PeopleSoft customers’ concerns. To address PeopleSoft  
17 customer fear, uncertainty and doubt, Oracle announced that it would “continue to develop and  
18 improve PeopleSoft’s products for at least the next ten years -- even longer, if customers require  
19 further support.”

20 234. During Oracle approximately 18 month attempt to acquire PeopleSoft, SAP and  
21 other ERP vendors saw a competitive opportunity to win PeopleSoft and JDE customers who  
22 were concerned that Oracle may succeed in acquiring PeopleSoft. SAP initiated a marketing  
23 program called Safe Harbor intended to take advantage of that competitive opportunity.

24 235. Oracle finalized its acquisition of PeopleSoft on January 7, 2005 and had a much-  
25 publicized public unveiling by its highest executives of its going-forward plans for PeopleSoft on  
26 January 18, 2005.

27 236. Customers switch ERP vendors for a variety of reasons, including a desire to  
28 standardize on one ERP vendor’s software or to obtain specific functionality that is only

1 available from another vendor.

2 237. Customers also cancel an ERP vendor's support services for a variety of reasons,  
3 including cost, dislike of the vendor's support service, or a lack of perceived value from the  
4 service.

5 238. Customers who cancel an ERP vendor's support service may obtain support  
6 services from another provider, some combination of other providers, or may go without support  
7 from an outside party (i.e. self-support).

8 239. Plaintiffs identified several characteristics of "at risk" customers. These include  
9 customers on old and/or stable releases of products, customers who do not intend to upgrade to a  
10 new release of a product, and customers who require little or no support.

11 240. Over the relevant time period, on average, Oracle applications customers using  
12 alternative support options account for less than 3% of all Oracle applications customers.

13 241. PeopleSoft also competed in certain aspects of the ERP software and support  
14 business, offering its own products and those of J.D. Edwards, Inc. ("JDE"), which PeopleSoft  
15 had acquired shortly before Plaintiffs' hostile acquisition.

16 242. Like Safe Harbor, SAP's Safe Passage program was intended to win PeopleSoft  
17 and JDE customers.

18 243. Of the 358 TN customers, at least 86 were customers that purchased TN support  
19 services and SAP products or services simultaneously, or that were existing TN customers at the  
20 time that they purchased new SAP software.

21 244. During discovery, the parties reviewed TN's 358 customers and agreed upon 86  
22 customers that purchased software or support from SAP at or after the time they began receiving  
23 support from TN. This is referred to as the "List of 86."

24 245. Of those 86 customers, Oracle claims that it is entitled to infringer's profits  
25 damages attributable to 63 customers. Based on this estimation, Oracle claims that it is entitled  
26 to \$236 million in infringer's profits damages.

27 246. Of those 86 customers, Defendants contend that Oracle is entitled to infringer's  
28 profits damages attributable to 4 customers. Based on this estimation, Defendants contend that

1 Oracle is entitled to \$8.7 million in infringer's profits damages.

2 247. Oracle contends that it is entitled to lost profits damages in the amount of \$36  
3 million as of October 2008 and \$120.7 million projected through May 2015, as a result of the  
4 loss of 253 customers.

5 248. Defendants contend that Oracle is entitled to lost profits damages in the amount of  
6 \$19.3 million, related to 206 customers.

7 249. OSSINFO is representative of Oracle's senior approval in the approval chain.

8 250. Gary Miller was the head of business operations for all of the customer services  
9 businesses.

10 251. As part of the support renewal approval process, Juan Jones, who reported to  
11 Juergen Rottler, had to approve every pricing decision that was an exception from the existing  
12 Oracle customer support contract being renewed.

13 252. Critical customer accounts refer to customers identified as at risk of leaving  
14 Oracle and thus not renewing support.

15 253. John Schiff was an Oracle Vice President and General Manager in charge of the  
16 development for the JD Edwards World product line from approximately 2005 to 2007.

17 254. In June of 2009, Brad Nolan was a director of Oracle product support, working  
18 directly under John Schiff the Vice President and General Manager of the JD Edwards World  
19 product line.

20 255. Catherine Jensen was a PeopleSoft Vice President until at least March 2005.

21 256. As an Oracle account executive, Francois Albert's responsibilities related to  
22 license sales, and included serving as the software license representative for individual  
23 customers.

24 257. As an applications sales manager, Mike Schlimgen's responsibilities related to  
25 license sales, and included managing applications sales representatives and participating in the  
26 negotiation and sale of software licenses to customers.

27 258. Marc Goldsmith was a Oracle global applications sales manager for the customer  
28 GE. Until January of 2011, GE was the parent company of NBC Universal.

1           259. As an Oracle sales manager, Marc Goldsmith's responsibilities related to license  
2 sales, and included managing applications sales representatives and participating in the  
3 negotiation and sale of software licenses to customers.

4           260. Patrick Daly was an Oracle account manager for customer GE and worked on  
5 Oracle's NBC Universal account.

6           261. As an Oracle account manager, Patrick Daly's responsibilities related to  
7 management of the GE customer account, in particular by dealing personally with the customer  
8 and taking customer issues to the critical accounts team.

9           262. Daniel Sirkot was an Oracle employee who worked under Patrick Daly.

10          263. As an Oracle application sales manager, Paul Mahoney's responsibilities related  
11 to license sales, and included managing applications sales representatives and participating in the  
12 negotiation and sale of software licenses to customers.

13          264. As an Oracle account sales manager, John Russnok's responsibilities related to  
14 license sales, and included managing Oracle sales representatives and participating in the  
15 negotiation and sale of software licenses to customers.

16          265. As an Oracle regional manager, Kevin Sullivan's responsibilities related to  
17 license sales, and included managing a number of sales representatives and participating in the  
18 negotiation and sale of software licenses to customers.

19          266. Elizabeth Baker was an Oracle employee and was an Oracle sales representative  
20 in North America.

21          267. As an Oracle sales representative, Elizabeth Baker's responsibilities related to  
22 software sales, and included negotiating the sale of software licenses to customers; in some  
23 cases, she also may have helped a support sales representative close a support sale.

24          268. Chris Madsen was an Oracle Vice President of North America Support Sales who  
25 oversaw all North American customer support sales.

26          269. Chris Madsen led Oracle's global support organization.

27          270. Andy Allbritten was the Vice President of Support Sales for PeopleSoft prior to  
28 the Oracle acquisition, and was the Group Vice President for Support Services at Oracle.

1           271. At PeopleSoft, Andy Allbritten's responsibilities related to support sales, and he  
2 reported to the PeopleSoft head of sales.

3           272. At Oracle, Andy Albritten's responsibilities related to support sales, and included  
4 reporting to Oracle the number of customer support sales that were at risk as well as those that  
5 had been lost.

6           273. Chris Hummel was the Vice President of Marketing at Oracle in December of  
7 2005 and the Vice President of Services Sales Support from at least 2005 to 2006.

8           274. Chris Hummel's responsibilities related to support sales, and included overseeing  
9 support marketing and making sure Oracle's support sales remained high and customers stayed  
10 on support.

11          275. David Hare was a Group Vice President, Support Services, and his  
12 responsibilities related to support delivery.

13          276. Kathleen Lindsey was an Oracle employee; and held the positions of acquisition  
14 integration lead, director of support sales, and senior director of acquisitions.

15          277. Kathleen Lindsey's responsibilities related to support sales, and included  
16 managing a group of support sales representatives at and helping with the integration of  
17 companies brought into Oracle.

18          278. Allison Adams was a manager of business planning and Oracle support services.  
19 She was also at one time a Senior Director, Support Sales Acquisitions, at Oracle.

20          279. As an Oracle senior director, Allison Adams' responsibilities related to support  
21 sales and acquisitions, and included assisting with the integration of acquired companies into  
22 Oracle as a whole and into Oracle's support sales team. As such, she handled contract concerns  
23 and data integration concerns.

24          280. Allison Adams also worked in the OSSINFO organization.

25          281. As a support sales manager, Todd Chapel's responsibilities related to support  
26 sales, and included managing Oracle support sales representatives and participating in  
27 customers' renewal of software support, reviewing the representatives' performance, creating  
28 support sales forecasts, and overseeing communications with customers, support sales tracking,

1 and the negotiation of support sales.

2 282. As a senior Oracle support sales manager, Jim Steder's responsibilities related to  
3 support sales, and included managing Oracle support sales representatives and participating in  
4 customers' renewal of software support, reviewing the representatives' performance, creating  
5 support sales forecasts, and overseeing communications with customers, support sales tracking,  
6 and the negotiation of support sales.

7 283. As an Oracle support sales manager, Barbara Sharp-Moore's responsibilities  
8 related to support sales, and included managing Oracle support sales representatives and  
9 participating in customers' renewal of software support, reviewing the representatives'  
10 performance, creating support sales forecasts, and overseeing communications with customers,  
11 support sales tracking, and the negotiation of support sales.

12 284. As an Oracle regional support sales manager, James (Jamie) Blackford's  
13 responsibilities related to support sales, and included managing Oracle support sales  
14 representatives and participating in customers' renewal of software support, reviewing the  
15 representatives' performance, creating support sales forecasts, and overseeing communications  
16 with customers, support sales tracking, and the negotiation of support sales.

17 285. As a senior regional manager at Oracle, Robert Lachs's responsibilities related to  
18 support sales, and included managing Oracle support sales representatives and participating in  
19 customers' renewal of software support, reviewing the representatives' performance, creating  
20 support sales forecasts, and overseeing communications with customers, support sales tracking,  
21 and the negotiation of support sales.

22 286. Rachel Romano was a regional support sales manager at Oracle who reported to  
23 Richard Cummins.

24 287. As an Oracle regional support sales manager, Rachel Romano's responsibilities  
25 related to support sales, and included managing Oracle support sales representatives and  
26 participating in customers' renewal of software support, reviewing the representatives'  
27 performance, creating support sales forecasts, and overseeing communications with customers,  
28 support sales tracking, and the negotiation of support sales.

1           288. Jordan Rowe-McCune was a regional support sales manager at Oracle who  
2 reported to Richard Cummins.

3           289. As a regional support sales manager, Jordan Rowe-McCune's responsibilities  
4 related to support sales, and included managing Oracle support sales representatives and  
5 participating in customers' renewal of software support, reviewing the representatives'  
6 performance, creating support sales forecasts, and overseeing communications with customers,  
7 support sales tracking, and the negotiation of support sales.

8           290. As an Oracle support sales manager, Michael Gorski's responsibilities related to  
9 support sales, and included managing Oracle support sales representatives and participating in  
10 customers' renewal of software support, reviewing the representatives' performance, creating  
11 support sales forecasts, and overseeing communications with customers, support sales tracking,  
12 and the negotiation of support sales.

13          291. As an Oracle support sales manager, Becky Green's responsibilities related to  
14 support sales, and included managing Oracle support sales representatives and participating in  
15 customers' renewal of software support, reviewing the representatives' performance, creating  
16 support sales forecasts, and overseeing communications with customers, support sales tracking,  
17 and the negotiation of support sales.

18          292. Barbara Allario was an Oracle senior support sales manager.

19          293. As an Oracle senior support sales manager, Barbara Allario's responsibilities  
20 related to support sales, and included managing Oracle support sales representatives and  
21 participating in customers' renewal of software support, reviewing the representatives'  
22 performance, creating support sales forecasts, and overseeing communications with customers,  
23 support sales tracking, and the negotiation of support sales.

24          294. As an Oracle senior regional manager, Debra Hutchins' responsibilities related to  
25 support sales, and included managing Oracle support sales representatives and participating in  
26 customers' renewal of software support, reviewing the representatives' performance, creating  
27 support sales forecasts, and overseeing communications with customers, support sales tracking,  
28 and the negotiation of support sales.

1           295. As an Oracle support sales manager, Peter Schneider’s responsibilities related to  
2 support sales, and included managing Oracle support sales representatives and participating in  
3 customers’ renewal of software support, reviewing the representatives’ performance, creating  
4 support sales forecasts, and overseeing communications with customers, support sales tracking,  
5 and the negotiation of support sales.

6           296. James McLeod was a regional support sales manager at Oracle.

7           297. As an Oracle regional support sales manager, James McLeod’s responsibilities  
8 related to support sales, and included managing Oracle support sales representatives and  
9 participating in customers’ renewal of software support, reviewing the representatives’  
10 performance, creating support sales forecasts, and overseeing communications with customers,  
11 support sales tracking, and the negotiation of support sales.

12          298. Betsy Steelman was a services support manager for Oracle.

13          299. As an Oracle services support manager, Betsy Steelman’s responsibilities related  
14 to support sales, and included managing Oracle support sales representatives and participating in  
15 customers’ renewal of software support, reviewing the representatives’ performance, creating  
16 support sales forecasts, and overseeing communications with customers, support sales tracking,  
17 and the negotiation of support sales.

18          300. Carlos Barradas was the customer loyalty director at PeopleSoft prior to the  
19 Oracle acquisition and the director of critical customer accounts in Oracle’s customer loyalty  
20 department.

21          301. As the director of critical accounts, Carlos Barradas’ responsibilities related to  
22 support sales, and included directing the Oracle team that manages escalated customers, which  
23 are customers that are at risk for failed implementation of Oracle software or have threatened  
24 litigation.

25          302. Jim Petraglia was a PeopleSoft employee who was part of the management team  
26 for PeopleSoft prior to the Oracle acquisition.

27          303. Kelly Stevens was an Oracle support sales representative.

28          304. As a Oracle support sales representative, Kelly Stevens’s responsibilities related

1 to customers who would be renewing support for software annually. As a support sales  
2 representative, she would have been in constant contact with customers, and for each customer,  
3 tracked the sales cycle, from quotation, to communications with the customer, to eventually  
4 getting a purchase order.

5 305. Lori Sanabria was a support sales representative in Oracle's support sales group.

6 306. As an Oracle support sales representative, Lori Sanabria's responsibilities related  
7 to customers who would be renewing support for software annually. As a support sales  
8 representative, she would have been in constant contact with customers, and for each customer,  
9 tracked the sales cycle, from quotation, to communications with the customer, to eventually  
10 getting a purchase order.

11 307. As an Oracle support sales representative, Michael Van Boening's responsibilities  
12 related to customers who would be renewing support for software annually. As a support sales  
13 representative, he would have been in constant contact with customers, and for each customer,  
14 tracked the sales cycle, from quotation, to communications with the customer, to eventually  
15 getting a purchase order.

16 308. Michael Van Boening had custody of a spreadsheet kept by Oracle that tracked  
17 Oracle's progress in winning customers back from TomorrowNow.

18 309. Oracle tracked customer cancellations. The purpose of the at-risk report was to  
19 keep track of particular customers at risk of cancelling support.

20 310. Richard Cummins and/or Elizabeth Shippy maintained Oracle's at-risk report by  
21 requesting information from Oracle's support sales representatives related to those  
22 representatives' at risk accounts and inputting the information received from those  
23 representatives into the master report.

24 311. The data in the at risk report was derived from Oracle's support sales  
25 representatives.

26 312. It was Oracle's ordinary practice for each support sales representative who  
27 provided information for the at risk report to provide that information at or near the time that he  
28 or she was working on a customer account and in communication with the customer.

1           313. Each support sales representative that provided information for the at-risk report  
2 was responsible for providing information for the particular customer account for which he or  
3 she were responsible.

4           314. Oracle's management team required that the support sales representatives  
5 regularly provide information for the at-risk report, including detailed notations regarding  
6 account status and steps taken with the customer. Oracle's management team requested updates  
7 at least quarterly based on the information collected from the support sales representatives and  
8 inputted into the at-risk report.

9           315. Support sales representatives provided information for the at-risk report over the  
10 course of each year as part of their normal responsibilities.

11          316. Customers were included on the at-risk report if they indicated that they were  
12 considering a third party provider for support services.

13          317. Support sales representatives are in constant contact with customers, and for each  
14 customer, track the sales cycle, from quotation, to communications with the customer, to  
15 eventually getting a purchase order for the support renewal.

16          318. For some period of time, John Wookey reported directly to Oracle CEO Larry  
17 Ellison.

18          319. At a high level, an Oracle sales employee/representative's responsibilities  
19 generally include communicating directly with Oracle customers and prospective customers,  
20 reporting to other Oracle employees about communications with Oracle customers, and selling,  
21 or attempting to sell, software licenses to individual Oracle customers and/or prospective  
22 customers.

23          320. Oracle sales employees/representatives include Elizabeth Baker, Daniel Skirod  
24 and Francois Albert.

25          321. At a high level, an Oracle sales manager's responsibilities generally relate to  
26 software license sales and managing sales employees/representatives.

27          322. Oracle sales managers include Mike Schlimgen, Marc Goldsmith, Paul Mahoney,  
28 John Byckowski, Scott Trieloff, John Russnok, Patrick Daly, Teck Wee Lim, and Kevin

1 Sullivan.

2 323. At a high level, an Oracle support sales manager's responsibilities generally  
3 include managing Oracle support sales representatives and participating in customers' renewal of  
4 software support, reviewing the representatives' performance, creating support sales forecasts,  
5 and overseeing communications with customers, support sales tracking, and negotiations, if any,  
6 of support sales.

7 324. Oracle support sales managers include: Todd Chapel, Jim Steder, Barbara Sharp-  
8 Moore, James (Jamie) Blackford, Robert Lachs, Rachel Romano, Jordan Rowe-McCune,  
9 Michael Gorski, Becky Green, Barbara Allario, Debra Hutchins, Peter Schneider, James  
10 McLeod, Alicia Rago, Dan Rogers, Alison Taylor, and Betsy Steelman.

11 325. At a high level, an Oracle support sales employee/representative's responsibilities  
12 generally include communicating directly with Oracle customers and prospective customers,  
13 reporting to other Oracle employees about communications with Oracle customers, tracking an  
14 Oracle customer's status, and negotiations, if any, with customers related to support renewals.

15 326. Oracle support sales employees/representatives include: Kelly Stevens, Lori  
16 Sanabria, Michael Van Boening, Brenda Hutchinson, Jay Crowe, Danna Davis, Chris Burr and  
17 Kwan-Yee Attias.

18 327. The support sales management team included Richard Cummins and Juan Jones.

19 328. The information in OKI3 reports is generated from raw data provided by Oracle  
20 support sales representatives.

21 329. OKI3 reports are updated once a quarter, if additional information needs to be  
22 added to the reports.

23 330. Eileen McMillan works with OKI3 reports on a regular basis and has  
24 responsibility for developing and maintaining the report in the course of her regularly conducted  
25 business activities.

26 331. It is the regular practice of Oracle support sales representatives to enter  
27 information into the OKI system.

28 332. The Analytics Contracts Report for this case was run by an Oracle employee

1 named Peter Barlow.

2 333. An Analytics Contract Report is created when an Oracle employee requests a  
3 report containing particular information about a customer contract.

4 334. The Analytics Contract Report provides information related to customer contracts,  
5 including the product being supported and amount of support services for the product.

6 335. The Analytics License Report may be generated by Eileen McMillan and Peter  
7 Barlow, who have access to the analytics system so as to run the report.

8 336. Sergio Giacoletto was an Executive Vice President in the EMEA region at Oracle  
9 from at least February 2005 until February 2007.

10 337. As an applications sales manager, John Byckowski's responsibilities related to  
11 license sales, and included managing applications sales representatives and participating in the  
12 negotiation and sale of software licenses to customers.

13 338. As an applications sales manager, Scott Trieloff's responsibilities related to  
14 license sales, and included managing applications sales representatives and participating in the  
15 negotiation and sale of software licenses to customers.

16 339. As an Oracle account manager, Teck Wee Lim's responsibilities related to  
17 management of customer accounts, in particular by dealing personally with the customer and  
18 taking customer issues to the critical accounts team.

19 340. Yamilet Torres was a Senior Director, Business Operations at Oracle. She  
20 reported directly to Juan Jones and worked with Juan Jones on Oracle operations and strategy

21 341. As the Senior Director in Oracle Support, Jason Taylor was responsible for  
22 strategic renewals of customer support.

23 342. Matt Mills was a Senior Vice President at Oracle in charge of Oracle's  
24 applications business for strategic (i.e., large) customer accounts.

25 343. While at Oracle, Jim Patrice's job responsibilities have related to support delivery  
26 for customers and specific customer complaints. Buffy Ransom reports to Jim Patrice.

27 344. As an Oracle regional support sales manager, Alicia Rago's responsibilities  
28 related to support sales, and included managing Oracle support sales representatives and

1 participating in customers' renewal of software support, reviewing the representatives'  
2 performance, creating support sales forecasts, and overseeing communications with customers,  
3 support sales tracking, and the negotiation of support sales.

4 345. As an Oracle regional support sales manager, Dan Rogers's responsibilities  
5 related to support sales, and included managing Oracle support sales representatives and  
6 participating in customers' renewal of software support, reviewing the representatives'  
7 performance, creating support sales forecasts, and overseeing communications with customers,  
8 support sales tracking, and the negotiation of support sales.

9 346. As an Oracle regional support sales manager, Alison Taylor's responsibilities  
10 related to support sales, and included managing Oracle support sales representatives and  
11 participating in customers' renewal of software support, reviewing the representatives'  
12 performance, creating support sales forecasts, and overseeing communications with customers,  
13 support sales tracking, and the negotiation of support sales.

14 347. As a Oracle support sales representative, Brenda Hutchinson's responsibilities  
15 related to customers who would be renewing support for software annually. As a support sales  
16 representative, she would have been in constant contact with customers, and for each customer,  
17 tracked the sales cycle, from quotation, to communications with the customer, to eventually  
18 getting a purchase order.

19 348. As an Oracle support sales representative, Jay Crowe's responsibilities related to  
20 customers who would be renewing support for software annually. As a support sales  
21 representative, he would have been in constant contact with customers, and for each customer,  
22 tracked the sales cycle, from quotation, to communications with the customer, to eventually  
23 getting a purchase order.

24 349. As an Oracle support sales representative, Danna Davis's responsibilities related  
25 to customers who would be renewing support for software annually. As a support sales  
26 representative, she would have been in constant contact with customers, and for each customer,  
27 tracked the sales cycle, from quotation, to communications with the customer, to eventually  
28 getting a purchase order.

1           350. As an Oracle support sales representative, Chris Burr's responsibilities related to  
2 customers who would be renewing support for software annually. As a support sales  
3 representative, he would have been in constant contact with customers, and for each customer,  
4 tracked the sales cycle, from quotation, to communications with the customer, to eventually  
5 getting a purchase order.

6           351. In Oracle's Analyst Relations Group, Meeia Crossman's responsibilities related to  
7 support sales, and included working with support analysts and providing the results of analysts'  
8 research to support sales representatives.

9           352. Misti Lusher was an Oracle Analyst Relations and worked with Oracle's support  
10 services group in January 2005.

11          353. Rich Holada worked at Oracle from at least March of 2005 to October of 2006.  
12 His responsibilities related to database support for Oracle's CRM software.

13          354. Brenda Barnes was Sara Lee's Chief Executive Officer from 2005 to 2010. At  
14 SAP's 2009 Sapphire event, she spoke about Sara Lee's experiences with SAP.

15          355. As Co-President of Oracle, Charles Phillips's responsibilities related to company  
16 strategy, as well as determining what acquisitions Oracle would make and what markets it should  
17 pursue. Additionally, his responsibilities related to the management of Oracle's field operations,  
18 including sales, consulting, marketing, licensing channels, customer tracing activities, and the  
19 way Oracle sells products to customers.

20          356. As Co-President of Oracle Corporation, Charles Phillips oversaw the sales  
21 organizations for Oracle.

22          357. Juergen Rottler was an Executive Vice President, with responsibility for Oracle's  
23 Customer Services from some time in 2004 to at least some time in 2009.

24          358. As Executive Vice President, Oracle Customer Services, Juergen Rottler's  
25 responsibilities related to support services, and included making decisions about changing  
26 support pricing for existing Oracle customers.

27          359. John Wookey was a Senior Vice President at Oracle.

28          360. Edward Screven was Oracle's Chief Corporate Architect in 2007.

1           361. Charles Rozwat was Oracle's Executive Vice President of Server Technologies  
2 from at least November of 1999 to October of 2007 and Oracle's Executive Vice President of  
3 Product Development from at least October of 2007 to May 2009.

4           362. The HQAPP group at Oracle approves software license pricing on behalf of Larry  
5 Ellison and Safra Catz. Specifically, the HQAPP group reviews transactions for terms and  
6 conditions, pricing, product lists.

7           363. OSSINFO is an organization of Oracle employees that has some responsibility for  
8 enforcing Oracle's support pricing policies by performing a service/gatekeeper function.  
9 OSSINFO is part of Oracle's approval process; OSSINFO must approve certain special terms  
10 and certain other deviations from the standard Oracle support offering.

11          364. In general, OSSINFO may get involved if a customer requests a deviation from its  
12 software support contract.

13          365. The OSSINFO organization reported to Juergen Rottler through Gary Miller.

14          366. Juan Jones reported to Juergen Rottler.

15          367. Oracle has a sales organization that aims to sell software licenses and first-year  
16 support to customers and potential customers.

17          368. The sales organization is responsible for selling technology and applications  
18 products. In addition, it is also responsible for selling first-year support for licenses, as well as  
19 services, including software licenses for the PeopleSoft and JD Edwards product lines.

20          369. Within some Oracle sales organization, sales representatives report to regional  
21 managers, regional managers report to vice presidents, and vice presidents report to a higher  
22 level of vice president (which can be an area vice president, regional vice president, a group vice  
23 president, a senior vice president, or an executive vice president).

24          370. Members of the sales group and support sales group engaged in external  
25 discussions with Oracle customers and/or prospective customers, as well as engaged in internal  
26 discussions regarding Oracle customers and/or prospective customers.

27          371. Oracle employees identified by the title, "AE," are account executives.

28          372. Oracle employees identified by the title, "ASM," are application sales managers.

1           373. Oracle has a support renewal sales group also known as a support renewal sales  
2 team or a support sales team. Employees in this group or team include support sales employees,  
3 support sales representatives, support sales managers, support renewal employees, support  
4 renewal representatives and/or support renewal managers.

5           374. The support sales team is responsible for attempting to secure customers' renewal  
6 of Oracle's support maintenance contracts with regard to certain Oracle product lines that have  
7 support services.

8           375. Oracle support sales representatives, sometimes identified by the title, "SSR," are  
9 responsible for a number of customers that would be renewing support for software annually.

10          376. Some Oracle support sales representatives are given a quota for the year based on  
11 how many support sales each representative is expected to garner. In addition to salary, these  
12 support sales representatives are compensated with a commission based on whether they reach  
13 their support sales quota for the year.

14          377. Judith Sim was Oracle's Chief Marketing Officer from approximately 2005 to  
15 2009.

16          378. As Oracle's Chief Marketing Officer, Judith Sim's responsibilities related to  
17 global marketing at Oracle and supervising others in Oracle's marketing group.

18          379. In July of 2008, Richard Blotner was the Vice President of Operations for North  
19 American Sales Operations at Oracle, and his organization was responsible for the sale of  
20 software licenses for the PeopleSoft and JD Edwards product lines.

21          380. From 2002 to at least 2009, the Oracle sales group in North America was headed  
22 by Keith Block, who was an Executive Vice President of North America Sales and Consulting  
23 for Oracle.

24          381. Keith Block was also on the Oracle Executive Committee, which is a group of  
25 executives that spends time discussing forecasting, business issues, policy issues, as it relates to  
26 field initiatives, and other topics that are important to discuss as a management team.

27          382. As an Executive Vice President, at certain times Keith Block's responsibilities  
28 related to running the license sales, sales consulting, and consulting businesses in North

1 America.

2 383. Keith Block reported to Larry Ellison from 2002 to 2005 and Charles Phillips  
3 from 2005 to at least 2009.

4 384. In September of 2008, Buffy Ransom was the Vice President of Global Support  
5 Services for the JD Edwards EnterpriseOne software and industry business units at Oracle.

6 385. As Vice President of Global Support Services, Buffy Ransom's responsibilities  
7 related to software support, and included managing 500 Oracle support analysts.

8 386. Jesper Andersen was the Senior Vice President of Applications Strategy.

9 387. As Senior Vice President, Jesper Andersen's responsibilities related to strategy  
10 for all of Oracle's applications from 2005 to 2008.

11 388. At some time, Jesper Andersen reported to John Wookey.

12 389. Cindy Bolt was an Oracle Area Vice President.

13 390. Stephan Scholl was an Oracle employee and was the Senior Vice President of  
14 Oracle's North American Consulting Services Organization.

15 391. Stephen Scholl directed several Oracle consultants who were responsible for  
16 helping customers implement their products and customize their products if they so chose.

17 392. In August of 2009, Paul Duggan was a senior director in Oracle's support sales  
18 group, and he worked directly under Chris Madsen, who was a Vice President of North America  
19 support sales and led Oracle's global support organization.

20 393. Craig Tate was the Group Vice President, North Central Applications at Oracle.

21 394. In October of 2008, John Burke was an Oracle Group Vice President, a title he  
22 had held since June of 2007 when he was hired to manage Oracle's product marketing, its  
23 applications product marketing, its applications competitive intelligence, and its applications  
24 global sales support group.

25 395. As a director of Oracle product support, Brad Nolan's responsibilities included  
26 interacting with the support sales team, and providing information on JD Edwards World  
27 products, product direction, and functionality.

28 396. Karen Tillman was an Oracle Vice President of Public Relations.

1 397. Francois Albert was an Oracle application sales representative.  
2 398. Mike Schlimgen was an applications sales manager at Oracle.  
3 399. Paul Mahoney was an account sales representative at Oracle.  
4 400. John Russnok was an Oracle application sales representative.  
5 401. Kevin Sullivan was an Oracle regional manager in Life Sciences ERP.  
6 402. The support sales management team included Juan Jones.  
7 403. Juan Jones was a Senior Vice President of Customer Services, North America  
8 Support at Oracle from approximately 2005 to 2009.  
9 404. As Senior Vice President of Customer Services, North America Support, Juan  
10 Jones's responsibilities related to support sales, and included leading (1) the support sales team  
11 for North America, (2) the customer services management team for North America, and (3) a  
12 small group that monitors acquisition and customer success.  
13 405. The Oracle support sales organization reports through Juan Jones to an Executive  
14 Vice-President.  
15 406. Juan Jones reported to Juergen Rottler from approximately 2005 to 2009.  
16 407. Juan Jones interacted with OSSINFO on a fairly regular basis, sending approvals  
17 to OSSINFO and having discussions with them about those approvals in the process.  
18 408. Richard Cummins was a senior director of support renewals for Oracle North  
19 America from 2005 to at least 2009.  
20 409. As a senior director of support renewals, Richard Cummins's responsibilities  
21 related to support sales, and included assisting Oracle customers to renew support, contacting  
22 customers regarding their renewal for the upcoming time frame, working with the customer to  
23 ensure that Oracle got a purchase order before the start date of their contract, and if there are any  
24 questions on contracts or questions about the services, answering those questions.  
25 410. Richard Cummins oversaw the regional support sales managers, including, but not  
26 limited to, James McLeod, Robert Lachs, James Blackford, and Jordan Rowe-McCune.  
27 411. Richard Cummins was a PeopleSoft employee from 2003 to 2005.  
28 412. Richard Cummins worked in customer support sales from 2000 to at least 2008.

1           413. Richard Cummins reported to Chris Madsen, who reported to Juan Jones, from at  
2 least 2005 to 2008.

3           414. Chris Madsen was also a support sales manager for at least the following Oracle  
4 customers: 5 Star Quality Care, AC Transit, Blue Diamond Growers, Brigham Young  
5 University, Carrols Corporation, Ciber, Inc., and Merck & Company, Inc.

6           415. Nancy Lyskawa was the Vice President of Support Marketing from at least 2006  
7 to 2009.

8           416. Nancy Lyskawa testified at deposition that as the Vice President of Support  
9 Marketing, her responsibilities related to software support, and included marketing Oracle's  
10 support so as to showcase the value of that support to Oracle customers. She also testified that  
11 one of her goals in that role was to build a sales tool that Oracle's support sales representatives  
12 could utilize to help them showcase the value of Oracle support.

13           417. Elizabeth Shippy was a Special Programs Manager in Oracle's support sales  
14 group from March of 2005 to at least September of 2008.

15           418. Elizabeth Shippy's job responsibilities from March of 2005 to at least March of  
16 2009 included assisting the support sales maintenance team with programs that would help them  
17 be more successful in their renewal process and making improvements from a system and  
18 process respective with regard to support sales.

19           419. Ian Plummer was the Oracle Vice President of Service Delivery Management,  
20 and his responsibilities related to customer management within the support organization.

21           420. Ian Plummer reported to Juan Jones regarding Oracle customer service.

22           421. Robbin Henslee was a PeopleSoft employee from 1994 until the Oracle  
23 acquisition in January of 2005.

24           422. In her last position at PeopleSoft, before the Oracle acquisition, Robbin Henslee  
25 was in charge of developing PeopleSoft's specialized support programs for larger customers and  
26 also working on strategy for the support line of business for PeopleSoft.

27           423. At Oracle, Robbin Henslee was a director of support policies, and her  
28 responsibilities related to support sales, and included reviewing the support pricing and policies

1 that Oracle had in effect at that time and working on Oracle's lifetime support campaign.

2 424. Todd Chapel was a PeopleSoft Support Sales Manager and an Oracle Support  
3 Sales Manager.

4 425. Todd Chapel was a support sales manager for at least the following Oracle  
5 customers: Atlantic Container Line, Beacon Industrial Group, BEA Systems, Inc., Blue Cross  
6 Blue Shield of Kansas, and Coors Brewing Company.

7 426. Jim Steder was an Oracle employee, working as a director of support sales as well  
8 as a senior regional manager of support sales.

9 427. Jim Steder was a support sales manager for at least the following Oracle  
10 customers: American Red Cross Southern Pennsylvania Chapter, Aon Corporation, Bear Stearns  
11 & Co, Inc., Caterpillar Elphinstone, Merck & Company, Inc., and Dana Corporation.

12 428. Barbara Sharp-Moore was an Oracle employee and was an Oracle support sales  
13 manager.

14 429. Barbara Sharp-Moore was a support sales manager for at least the following  
15 Oracle customers: Pfizer Inc., Circuit City, Merck & Company, Inc., and Universal City Studios  
16 LLP.

17 430. James (Jamie) Blackford was a regional support sales manager who reported to  
18 Richard Cummins.

19 431. James (Jamie) Blackford was a support sales manager for at least the following  
20 Oracle customers: Abitibi Consolidated Inc., Alcon Laboratories, Amgen Inc., Computer  
21 Associates International, Inc., Eriez Manufacturing Co., Hitachi Global Storage Technology,  
22 Merck & Company, Inc., Petco Animal Supplies, Inc., and Vanguard Managed Solutions LLC.

23 432. Michael Van Boening report to James (Jamie) Blackford from some time in 2004  
24 to at least 2009.

25 433. Robert Lachs was a senior regional manager of support sales in the Oracle support  
26 sales group.

27 434. Robert Lachs was a support sales manager for at least the following Oracle  
28 customers: BASF AG, Baxter International Inc., Engelhard Corporation, Koontz-Wagner,

1 Lexmark International, Inc., Merck & Company, Inc., PepsiAmericas, Richardson Electronics  
2 Ltd., Rockwell Automation, Stora Enso North American Corp., and Trends International, LLC.  
3 435. Robert Lachs reported to Richard Cummins.  
4 436. Rachel Romano was a support sales manager for at least the following Oracle  
5 customers: Carrols Corporation, Channing Bete Company, Inc., CKE Restaurants, Inc., Contico  
6 Corp., Coty Inc., Education Direct, Inc., Laird Plastics, and Vanguard Managed Solutions LLC.  
7 437. Jordan Rowe-McCune was a support sales manager for at least the following  
8 Oracle customers: Alcon Laboratories, Baxter International Inc., BEA Systems, Inc., California  
9 Water Services, Ciber, Inc., CKE Restaurants, Inc., Clear Channel Management Services LP,  
10 East Bay Municipal Utility District, Petco Animal Supplies, Inc. and Simon Property Group, LP.  
11 438. Michael Gorski was an applications sales manager at Oracle.  
12 439. Becky Green was an Oracle support services manager.  
13 440. Debra Hutchins was a senior regional manager in the support sales group at  
14 Oracle under Chris Madsen.  
15 441. Debra Hutchins was a support sales manager for at least the following Oracle  
16 customers: Aon Corporation, Baxter International Inc., Brigham Young University, Honeywell  
17 International, Inc., and Sony Pictures Entertainment.  
18 442. Peter Schneider was an Oracle service renewal representative.  
19 443. James McLeod was a support sales manager for at least the following Oracle  
20 customers: Acushnet Company, Brigham Young University, Carrols Corporation, Channing Bete  
21 Company, Inc., Contico Corp., Coty Inc., BASF AG, Education Direct, Inc., Engelhard  
22 Corporation, Honeywell International, Inc., and Merck & Company, Inc.  
23 444. James McLeod reported to Richard Cummins.  
24 445. Carlos Barradas was an Oracle senior principal critical accounts manager.  
25 446. Michael Van Boening was a support sales representative for Oracle and reported  
26 indirectly to Richard Cummins.  
27 447. In August of 2009, Eileen McMillan was a director of Enterprise Reporting for  
28 Oracle's Customer Intelligence Organization.

1           448. As a director of Enterprise Reporting for Oracle’s Customer Intelligence  
2 Organization, Eileen McMillan’s responsibilities related to software support, and included  
3 developing reports to be used by the support sales group to help it manage the provision of  
4 Oracle support.

5           449. Kwan-Yee Attias was an Oracle support services employee.

6           450. Eileen McMillan responsibilities included running standard reports that come out  
7 of the OKI system, including the OKI3 reports. OKI3 reports are generated and maintained  
8 from the OKI system in the ordinary course of business.

9           451. OKI3 reports are used to provide Oracle with certain information regarding  
10 customer support contracts.

11          452. OKI3 reports provide information on Oracle’s customer contracts such as (1) the  
12 customer name, (2) the contract number, (3) the contract status type, which indicates whether a  
13 contract is active, expired, or cancelled, and (4) the product description, which indicates on  
14 which product a customer is receiving support.

15          453. OKI3 reports are generated from the OKI system when an Oracle employee  
16 requests a report containing particular information about a customer contract.

17          454. An Analytics Licenses Report is created when an Oracle employee requests a  
18 report containing particular information about a customer contract.

19          455. Analytics License Report contains license information that relates to the products  
20 that were purchased by the Oracle customer, whereas contract information relates to the renewal  
21 of a customer’s support contract.

22          456. The Analytics License Reports and Analytics Contract Reports are generated from  
23 the analytics system at Oracle, which system is called Customer Intelligence Analytics.

24          457. Eileen McMillan runs analytics reports from the Oracle analytics system in the  
25 course of her job as a director of Enterprise Reporting for Oracle’s Customer Intelligence  
26 Organization.

27          458. When an OKI3 report is run from the OKI system, it produces a standard report.  
28 In contrast, reports produced by the analytics systems provide different information depending

1 on the parameters provided.

2 459. Oracle had a team of employees known as the third-party SWAT team, which was  
3 formed around 2005 to focus on large customer accounts that were at-risk and work with those  
4 at-risk customers in an attempt to keep them on Oracle support.

5 460. Lara McGurk was an Oracle Global Customer Programs Director from March  
6 2006 through at least May 2006.

7 461. Brian Mitchell was an Oracle Senior Vice President License and Consulting in the  
8 Asia Pacific Division in February of 2007.

9 462. Barbry McGann worked at Oracle from at least January of 2005 to January of  
10 2007. In June of 2005, Barbry McGann was Vice President, CRM Strategy.

11 463. Thorsten Hapke was as an Oracle Account Executive from December 2005 to at  
12 least March 2006.

13 464. John Byckowski was an application sales manager at Oracle in March 2006.

14 465. Scott Trieloff was an application sales manager at Oracle from June 2005 through  
15 at least April 2006.

16 466. Teck Wee Lim worked at Oracle from at least March of 2005 to February of  
17 2007. Teck Wee Lim worked as an account manager in February 2007.

18 467. Yamilet Torres was a Senior Director, Business Operations at Oracle. She  
19 reported directly to Juan Jones.

20 468. Jason Taylor was a Senior Director in Oracle Support Sales from 2005 through  
21 2008.

22 469. Matt Mills oversaw the North American Strategic Accounts for application sales.

23 470. Jim Patrice was an Oracle employee, who has had at least the following titles:  
24 Oracle Vice President of Customer Insight and Advocacy in July of 2005; Vice President of  
25 Product Support; and later Senior Vice President of Global Support Operations.

26 471. Buffy Ransom reported to Jim Patrice.

27 472. James (Jamie) Blackford was a support sales manager for at least the following  
28 Oracle customers: Abitibi Consolidated Inc., Alcon Laboratories, Amgen Inc., Computer

1 Associates International, Inc., Eriez, Hitachi Global Storage Technology, Merck & Company,  
2 Inc., Petco Animal Supplies, Inc., and Vanguard Managed Solutions LLC.

3 473. Robert Lachs was a support sales manager for at least the following Oracle  
4 customers: Baxter International Inc., Engelhard Corporation, Koontz-Wagner, Lexmark  
5 International, Inc., Merck & Company, Inc., PepsiAmericas, Richardson Electronics Ltd.,  
6 Rockwell Automation, Stora Enso North American Corp., and Trend International, LLC.

7 474. Jordan Rowe-McCune was a support sales manager for at least the following  
8 Oracle customers: Alcon Laboratories, Baxter International Inc., BEA Systems, Inc., California  
9 Water Services, Ciber, Inc., CKE Restaurants, Inc., Clear Channel Management Services LP, and  
10 Petco Animal Supplies, Inc., and Simon Property Group, LP.

11 475. Alicia Rago was a regional support sales manager who reported to Richard  
12 Cummins.

13 476. Dan Rogers was a regional support sales manager who reported to Richard  
14 Cummins.

15 477. Alison Taylor was a regional support sales manager in March 2007.

16 478. James McLeod was a support sales manager for at least the following Oracle  
17 customers: Acushnet Company, Brigham Young University, Carrols Corporation, Channing Bete  
18 Company, Inc., Contico Corp., Coty Inc., BASF, Education Direct, Inc., Engelhard Corporation,  
19 Honeywell International, Inc., and Merck & Company, Inc.

20 479. Brenda Hutchinson was a support sales representative in Oracle's support sales  
21 group.

22 480. Jay Crowe was a support sales representative for Oracle from at least May of  
23 2006 to April of 2007.

24 481. Danna Davis was an Oracle support representative.

25 482. Chris Burr was an Oracle support sales representative in March 2007.

26 483. Meeia Crossman worked in PeopleSoft's Support Services Marketing  
27 organization. As part of this organization, Meeia Crossman's responsibilities related to support  
28 sales, and included preparing marketing and collateral materials as well as competitive analysis.

1           484.   Meeia Crossman worked in Oracle’s Support Services Marketing Group from  
2 January of 2005 to July of 2007 and in Oracle’s Analyst Relations Group from August of 2007 to  
3 at least December of 2009.

4           485.   Daria Fuksa was an Oracle service director from at least December 2005 until  
5 May 2006.

6           486.   Rich Holada worked at Oracle from at least March of 2005 to October of 2006.

7           487.   Diane Howell-Watkins was an Oracle contract renewal representative at some  
8 time in 2006.

9           488.   Arnaud Lambert was a services renewal representative from at least October 2006  
10 until February 2007.

11          489.   Kate Kelly was an Oracle employee from at least September 2004 through  
12 February 2007.

13          490.   Clive Swan was an Oracle employee from at least May 2003 through March 2007.

14          491.   Thomas Bailey worked at Honeywell as an IT manager.

15          492.   At Honeywell, Thomas Bailey was in the HR technology group, responsible for  
16 supporting basic core HR job information, such as payroll and benefits, applications around  
17 performance and development, and HR reporting.

18          493.   Michael Dumpert was part of Honeywell’s HR technology group and had overall  
19 responsibility for PeopleSoft within their IT group for HR.

20          494.   Michael Dumpert was the primary contact between Honeywell and  
21 TomorrowNow with regard to Honeywell’s PeopleSoft software.

22          495.   Jim Neville was an employee of Honeywell in November of 2007.

23          496.   Dan Restmeyer worked at Amgen from at least 2004 to 2009.

24          497.   In October 2009, Dan Restmeyer was the Executive Director, Information  
25 Systems at Amgen.

26          498.   As the Executive Director, Information Systems at Amgen, Dan Restmeyer was  
27 responsible for the end user services and demand management area within the infrastructure  
28 group with information systems, which meant areas supporting desktops, services desks,

1 conferencing and audio-visual support, and requests for other information systems groups at  
2 Amgen.

3 499. Bettina Pickering worked in Amgen's global strategic sourcing organization.

4 500. Bettina Pickering was involved in Amgen's decision as to whether it should sign  
5 the TomorrowNow Software Support Agreement and was involved in the negotiations with  
6 TomorrowNow related thereto.

7 501. Cathy Trent, who worked at Amgen, was involved in Amgen's negotiations with  
8 TomorrowNow related to Amgen's signing the TomorrowNow Software Support Agreement.

9 502. Jim Bock was an employee of Amgen in at least October of 2009.

10 503. Jeffrey O'Donnell was a commodity manager at Lexmark International from at  
11 least 2003 to 2009, responsible for sourcing, negotiating, and executing relevant agreements for  
12 goods and services related to technology.

13 504. In July of 2004, Max Sturgeon was the contract administrator for Lexmark  
14 International.

15 505. Bruno Singh worked for Universal Studios (also known as NBC Universal or  
16 "Universal") from at least August of 1999 to August of 2009. In August of 2009, he was the  
17 Vice President of Universal's SAP Center of Excellence.

18 506. In August of 2009, the Chief Information Officer for NBC Universal was Chris  
19 First.

20 507. Steven Brazile was employed by Sara Lee in 2009. In October of 2009, he was  
21 Vice President of Application Development and Support at Sara Lee.

22 508. Brenda Barnes was Sara Lee's Chief Executive Officer.

23 509. In June of 2009, Mark Anderson worked as TravelCenters of America's manager  
24 of IT for PeopleSoft, SAP BW, and Cognos Business Intelligence.

25 510. In February of 2007, Anita Livanec was a programmer/analyst at TravelCenters of  
26 America. She had communications with TomorrowNow regarding TomorrowNow's provision  
27 of support.

28 511. In November of 2009, Paul Cooley worked as Waste Management's Director to

1 Information Technologies.

2 512. In November of 2009, Mark Dempt worked as Waste Management's Director of  
3 Software Maintenance.

4 513. Tracy Hallenberger was employed by Baker Botts from at least 1990 to 2009. In  
5 November of 2009, she was Chief Knowledge Officer at Baker Botts.

6 514. In June of 2006, Mark J. White worked as Baker Botts' Chief Administrative  
7 Officer. He signed, on behalf of Baker Botts, the TomorrowNow support services agreement.

8 515. Robyn Harrel was employed by Apria Healthcare from at least 1992 to 2009. In  
9 September of 2009, she was the program manager for finance and supply chain applications at  
10 Apria.

11 516. Deanna Meier was the Vice President of Applications Development at Apria  
12 Healthcare. Robyn Harrel communicated with Deanna Meier regarding the option of receiving  
13 software support services from TomorrowNow.

14 517. Daniel Jerome was employed by Electrolux some time in 2005 to October 2009 as  
15 its Head of IT Operations, North America.

16 518. In October of 2009, Jakob From worked as the head of Electrolux's global  
17 business applications team.

18 519. In June of 2009, John Kreul was the Vice President of Applications for  
19 PepsiAmericas.

20 520. Before the Oracle acquisition, George Purtha worked as PepsiAmericas' IT  
21 contract manager and acted as the PepsiAmericas' contact with PeopleSoft.

22 521. Robert Wasson was employed by McLennan County from at least 1989 to 2009.  
23 In July of 2009, he was IT director for McLennan County.

24 522. From at least 2005 to 2009, David Johnson worked underneath Robert Wasson  
25 and provided technical support for PeopleSoft software.

26 523. Defendants produced a financial information report in connection with the  
27 litigation *in Oracle USA, Inc., et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). The  
28 materials, bates-stamped TN-OR03523871-924, are a true copy of a Defendants' business record

1 that meets the factual requirements of Fed. R. Evid. 803(6) for establishing the Records of a  
 2 Regularly Conducted Activity exception to the hearsay rule.

3 524. The following are foundational lost profits and infringer's profits facts: the factual  
 4 portions of Clarke Appendices L, J, K1, O, N1, and N10.

5 525. Oracle produced an attrition rate report in connection with the litigation in Oracle  
 6 USA, Inc., et al. v. SAP AG, et al., Case No. 07-CV-01658 PJF (EDL). The report, bates-  
 7 stamped ORCL00689888, is e a true copy of an Oracle business record that meets the factual  
 8 requirements of Fed. R. Evid. 803(6) for establishing the Records of a Regularly Conducted  
 9 Activity exception to the hearsay rule.

10 **Oracle’s Proposed Foundational Damages Facts**

11 526. The following are foundational lost profits and infringer's profits facts, including  
 12 those concerning relevant customer revenues, profit margins, and customer service dates. These  
 13 foundational facts are contained in, and are derived from, both parties' expert schedules but  
 14 stripped of any disputed analysis. Plaintiff assert these foundational facts in anticipation of  
 15 Defendants' potential defenses. Oracle does not concede that these facts are necessary to satisfy  
 16 its burden of proof.

17 527. The customers listed in the columns titled “Clarke Customer Name” and “Meyer  
 18 Customer Name” in the chart below cancelled or did not renew support contracts with Oracle, or  
 19 one of its predecessors, for the products listed in the column titled “Product Line.” The chart  
 20 below also lists the day after the last day the customer received support from Oracle in a column  
 21 titled “Oracle Canceled Contract Date.”

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
1	Abbott Laboratories	1	Abbott Laboratories	JDE	12/01/06
2	Abitibi	2	Abitibi	JDE	01/01/07
5	Ace Parking	5	Ace Parking	PSFT	04/01/05
6	ACH Food	6	ACH Food	JDE	08/01/06
7	ACN Europe	7	ACN Europe	JDE World	06/25/07

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
9	Acushnet	9	Acushnet	PSFT	03/31/07
9	Acushnet	9	Acushnet	PSFT	05/25/07
11	AFLAC	11	AFLAC	PSFT	06/26/06
11	AFLAC	11	AFLAC	PSFT	09/14/06
13	Ajinomoto	13	Ajinomoto	JDE	01/01/06
14	Akorn	14	Akorn	JDE	01/01/06
16	Alberto-Culver	16	Alberto-Culver	PSFT	06/28/07
16	Alberto-Culver	16	Alberto-Culver	PSFT	02/27/08
16	Alberto-Culver	16	Alberto-Culver	SBL	06/01/07
18	Alcon Laboratories	18	Alcon Laboratories	PSFT	09/30/06
18	Alcon Laboratories	18	Alcon Laboratories	PSFT	12/22/06
18	Alcon Laboratories	18	Alcon Laboratories	PSFT	04/01/07
18	Alcon Laboratories	18	Alcon Laboratories	PSFT	06/29/07
19	Allianz Australia	19	Allianz Australia	PSFT	12/01/06
20	Allianz Life	20	Allianz Life	PSFT	03/06/07
23	American Commercial Lines	23	American Commercial Lines	PSFT	06/29/06
25	American Media	25	American Media	PSFT	11/21/05
25	American Media	25	American Media	PSFT	02/15/06
26	American Red Cross	26	American Red Cross	PSFT	12/23/06
26	American Red Cross	26	American Red Cross	PSFT	02/28/07
27	Amgen	27	Amgen	JDE	01/01/06
28	AO Smith	28	AO Smith	PSFT	03/22/07
28	AO Smith	28	AO Smith	PSFT	03/28/07
30	Apria Healthcare	30	Apria Healthcare	JDE	01/01/06
31	ARC	31	ARC	PSFT	06/24/04
32	Ariba	32	Ariba	PSFT	10/01/06
33	Arvato Services	33	Arvato Services	PSFT	01/16/07
33	Arvato Services	33	Arvato Services	PSFT	12/01/07
33	Arvato Services	33	Arvato Services	PSFT	10/13/08
36	ASTAR Air Cargo	36	ASTAR Air Cargo	PSFT	09/30/06
36	ASTAR Air Cargo	36	ASTAR Air Cargo	PSFT	12/31/06
37	Atlantic Container Store	37	Atlantic Container Store	JDE	07/01/08
38	Atlantic Marine	38	Atlantic Marine	JDE	09/01/06
39	Autobuses de la Piedad	39	Autobuses de la Piedad	JDE	01/01/06
41	Baker Botts	41	Baker Botts	PSFT	09/30/06
41	Baker Botts	41	Baker Botts	PSFT	12/18/06
41	Baker Botts	41	Baker Botts	PSFT	02/18/07
43	Barrie Hydro	43	Barrie Hydro	JDE	08/05/05
44	BASF AG	44	BASF AG	JDE	10/01/05
44	BASF AG	44	BASF AG	JDE	11/23/06
44	BASF AG	44	BASF AG	JDE	12/28/06
44	BASF AG	44	BASF AG	JDE	01/01/07
44	BASF AG	44	BASF AG	PSFT	10/09/06
45	Basler Electric	45	Basler Electric	JDE	11/28/06
45	Basler Electric	45	Basler Electric	JDE	01/01/07
46	Baxter International	46	Baxter International	PSFT	03/26/07
46	Baxter International	46	Baxter International	PSFT	04/01/07

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
47	BBS Electronics	47	BBS Electronics	JDE	10/01/01
49	Beacon Industrial Group	49	Beacon Industrial Group	JDE	07/01/08
52	Big Lots	52	Big Lots	PSFT	12/27/04
53	Blue Cross Blue Shield of KS	53	Blue Cross Blue Shield of KS	PSFT	03/16/07
53	Blue Cross Blue Shield of KS	53	Blue Cross Blue Shield of KS	PSFT	07/09/07
54	Blue Diamond Growers	54	Blue Diamond Growers	PSFT	10/24/06
55	BM Nagano	55	BM Nagano	JDE	01/01/06
56	Bonne Bell	56	Bonne Bell	JDE	11/01/06
57	Border Foods	57	Border Foods	JDE	01/01/07
58	Borders Group	58	Borders Group	PSFT	12/12/05
58	Borders Group	58	Borders Group	PSFT	12/21/05
60	Brenco	60	Brenco	JDE	01/01/07
62	BT Fuze	62	BT Fuze	JDE	02/01/06
63	By Referral Only	63	By Referral Only	SBL	07/30/08
64	CA	64	CA	PSFT	05/30/05
66	Canning Vale	66	Canning Vale	JDE	01/01/06
67	Capital Group	67	Capital Group	PSFT	06/23/05
68	Captain D's	68	Captain D's	JDE	01/01/06
71	Caterpillar Underground	71	Caterpillar Underground	JDE	01/01/07
72	CC Industries	72	CC Industries	JDE	10/01/05
72	CC Industries	72	CC Industries	PSFT	09/11/06
73	Central Garden and Pet	73	Central Garden and Pet	JDE	01/01/06
74	Channing Bete	74	Channing Bete	JDE	04/01/07
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	09/23/05
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	05/13/06
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	07/01/06
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	10/22/06
78	City of Atlanta	78	City of Atlanta	PSFT	05/15/04
81	City of Medicine Hat	81	City of Medicine Hat	JDE	01/01/06
84	Clear Channel Management	84	Clear Channel Management	PSFT	06/13/06
84	Clear Channel Management	84	Clear Channel Management	PSFT	09/26/07
85	CNH America	85	CNH America	JDE	01/01/06
86	Commerce Bank	86	Commerce Bank	PSFT	11/24/06
86	Commerce Bank	86	Commerce Bank	PSFT	02/10/07
86	Commerce Bank	86	Commerce Bank	PSFT	04/14/07
88	ConAgra Foods	88	ConAgra Foods	PSFT	03/28/06
88	ConAgra Foods	88	ConAgra Foods	PSFT	03/29/06
89	Contico	89	Contico	JDE	06/30/08
91	Coors Brewing Company	91	Coors Brewing Company	PSFT	03/31/04
93	Coty Mexico	93	Coty Mexico	JDE	01/01/07
95	Crayola	95	Crayola	JDE	02/01/05
96	Crothall Services	96	Crothall Services	JDE	01/01/08
97	CSBP Limited	97	CSBP Limited	SBL	11/02/05
98	CSK Auto	98	CSK Auto	PSFT	09/23/06

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
100	Decorative Concepts	100	Decorative Concepts	JDE	02/01/05
101	Delta Dental Plan of Michigan	101	Delta Dental Plan of Michigan	PSFT	02/14/06
102	DHL Container Logistics	102	DHL Container Logistics	JDE World	11/01/06
103	Diamond Cluster	103	Diamond Cluster	PSFT	03/29/06
104	Diocesan Service	104	Diocesan Service	PSFT	10/22/04
105	Direct Energy Marketing	105	Direct Energy Marketing	PSFT	10/16/06
106	Dominion Homes	106	Dominion Homes	JDE	05/01/08
107	Drexel Heritage	107	Drexel Heritage	JDE	02/24/08
108	Durr	108	Durr	JDE	01/01/06
108	Durr	108	Durr	JDE World	06/15/06
109	E.Piphany	109	E.Piphany	PSFT	06/27/05
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	11/13/05
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	02/04/06
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	11/13/06
112	Ecolab	112	Ecolab	JDE	01/01/08
113	Education Direct	113	Education Direct	JDE	01/01/07
115	Electrolux IT Solutions	115	Electrolux IT Solutions	JDE World	11/01/06
116	Empire District Electric	116	Empire District Electric	PSFT	06/23/05
116	Empire District Electric	116	Empire District Electric	PSFT	07/02/05
117	Employees' Retirement System of GA	117	Employees' Retirement System of GA	PSFT	06/24/04
120	Fabrica Nacional	120	Fabrica Nacional	JDE	01/01/08
121	Fairchild Semiconductor	121	Fairchild Semiconductor	PSFT	03/24/06
122	Federated Services	122	Federated Services	PSFT	09/21/06
127	Flint Group Incorporated	127	Flint Group Incorporated	JDE	05/01/06
130	Foreign Candy	130	Foreign Candy	JDE	04/01/06
131	Forth Ports	131	Forth Ports	JDE World	08/01/07
132	Foss Maritime	132	Foss Maritime	JDE	02/01/08
135	Fundamental Administrative Services	135	Fundamental Administrative Services	PSFT	06/01/07
137	Genesis Healthcare	137	Genesis Healthcare	PSFT	06/24/07
138	George Weston Bakeries	138	George Weston Bakeries	PSFT	12/22/04
138	George Weston Bakeries	138	George Weston Bakeries	PSFT	06/15/05
140	GKN Driveline North America	140	GKN Driveline North America	PSFT	03/23/06
140	GKN Driveline North America	140	GKN Driveline North America	PSFT	03/24/06
143	Greater Vancouver Regional District	143	Greater Vancouver Regional District	PSFT	08/20/06
144	Gregg Appliances	144	Gregg Appliances	PSFT	05/31/08
145	Grupo Convermex	145	Grupo Convermex	JDE	11/25/07
146	Gruppo GALBANI	146	Gruppo GALBANI	JDE World	01/01/06
148	Harley-Davidson	148	Harley-Davidson	JDE	01/01/07

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
				World	
149	Haworth	149	Haworth	PSFT	12/10/04
150	Helzberg Diamond Shops	150	Helzberg Diamond Shops	JDE	01/01/07
151	Henry Production	151	Henry Production	JDE	01/01/06
152	Herbert Waldmann Lichttechnik	152	Herbert Waldmann Lichttechnik	JDE World	01/01/07
154	High Industries	154	High Industries	PSFT	12/31/05
155	Hitachi Global Storage Technologies	155	Hitachi Global Storage Technologies	PSFT	02/01/06
155	Hitachi Global Storage Technologies	155	Hitachi Global Storage Technologies	PSFT	01/23/08
157	Home Depot	157	Home Depot	PSFT	09/27/06
158	Honeywell	158	Honeywell	PSFT	03/30/06
158	Honeywell	158	Honeywell	PSFT	03/30/07
160	Host Communications	160	Host Communications	JDE	01/01/06
161	Hubbard Construction	161	Hubbard Construction	JDE	06/01/06
163	Hydro One Networks	163	Hydro One Networks	PSFT	03/22/08
166	II Stanley	166	II Stanley	JDE	11/01/05
168	Informatica	168	Informatica	PSFT	03/29/06
168	Informatica	168	Informatica	PSFT	04/04/06
169	Information Handling Service	169	Information Handling Service	PSFT	09/18/04
171	Interpublic Group	171	Interpublic Group	PSFT	03/29/07
173	Intraware	173	Intraware	PSFT	03/31/05
174	J.B. Hunt	174	J.B. Hunt	PSFT	05/08/07
174	J.B. Hunt	174	J.B. Hunt	PSFT	05/25/07
175	J.W. Harris	175	J.W. Harris	JDE	09/01/05
176	JALPAK International	176	JALPAK International	JDE	06/01/07
177	Japan Travel Bureau Asia	177	Japan Travel Bureau Asia	JDE	01/01/06
178	Just Born	178	Just Born	JDE	12/01/05
179	Kellstrom Industries	179	Kellstrom Industries	JDE	01/01/06
180	Kent County Michigan	180	Kent County Michigan	PSFT	12/19/05
180	Kent County Michigan	180	Kent County Michigan	PSFT	07/01/07
181	Kentucky Fried Chicken	181	Kentucky Fried Chicken	JDE	10/01/06
183	KMC Telecom Holdings	183	KMC Telecom Holdings	PSFT	09/21/04
184	Koontz-Wagner	184	Koontz-Wagner	JDE	01/01/05
185	Laird Plastics	185	Laird Plastics	JDE	11/01/06
186	Lakeside Manufacturing	186	Lakeside Manufacturing	JDE	12/01/05
187	Lexmark	187	Lexmark	JDE	08/01/05
187	Lexmark	187	Lexmark	JDE	01/01/06
189	Linc Facility Services	189	Linc Facility Services	PSFT	05/01/06
189	Linc Facility Services	189	Linc Facility Services	PSFT	06/01/06
189	Linc Facility Services	189	Linc Facility Services	PSFT	06/04/06
190	Lincoln Property	190	Lincoln Property	JDE	11/01/05
191	Lion ReSources	191	Lion ReSources	PSFT	06/17/07
191	Lion ReSources	191	Lion ReSources	PSFT	06/18/07
191	Lion ReSources	191	Lion ReSources	PSFT	09/22/07
192	Littleton Public Schools	192	Littleton Public Schools	JDE	07/01/06
194	Longaberger	194	Longaberger	PSFT	06/24/07

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
195	LS Management	195	LS Management	PSFT	11/05/05
195	LS Management	195	LS Management	PSFT	05/01/06
196	Madix	196	Madix	SBL	09/10/07
197	Magee Clothing	197	Magee Clothing	JDE World	01/01/08
199	Manugistics	199	Manugistics	PSFT	06/28/06
199	Manugistics	199	Manugistics	PSFT	12/22/06
201	McLennan	201	McLennan	PSFT	07/17/06
202	Merck	202	Merck	JDE	01/01/07
202	Merck	202	Merck	PSFT	10/26/07
202	Merck	202	Merck	PSFT	07/21/08
203	Metex	203	Metex	JDE	05/01/06
204	Metro Machine	204	Metro Machine	JDE	01/01/07
205	Mieco	205	Mieco	PSFT	03/22/06
206	MKS	206	MKS	JDE	10/01/06
206	MKS	206	MKS	SBL	11/19/06
207	Municipality of Anchorage	207	Municipality of Anchorage	PSFT	08/29/03
208	Murphy-Brown	208	Murphy-Brown	JDE	10/01/06
208	Murphy-Brown	208	Murphy-Brown	JDE	08/31/07
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	11/08/05
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	08/24/06
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	11/01/06
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	05/20/07
210	National Americas Investment	210	National Americas Investment	PSFT	01/01/04
211	National Foods	211	National Foods	JDE	12/21/05
211	National Foods	211	National Foods	JDE	09/16/06
211	National Foods	211	National Foods	JDE	12/21/06
211	National Foods	211	National Foods	JDE	01/01/07
211	National Foods	211	National Foods	PSFT	07/31/06
212	National Manufacturing	212	National Manufacturing	JDE	12/28/06
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	08/05/06
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	06/04/07
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	07/13/07
216	Neaton Auto Products Mfg.	216	Neaton Auto Products Mfg.	JDE	01/01/06
217	New Era Cap	217	New Era Cap	PSFT	08/25/07
217	New Era Cap	217	New Era Cap	PSFT	09/23/07
217	New Era Cap	217	New Era Cap	PSFT	12/27/07
218	Newport	218	Newport	PSFT	12/17/06
222	Nitta Casings	222	Nitta Casings	JDE	12/01/05
223	Norstan Communications	223	Norstan Communications	PSFT	03/28/05
223	Norstan Communications	223	Norstan Communications	PSFT	05/20/05
223	Norstan Communications	223	Norstan Communications	PSFT	06/24/05
224	Northern Group Training	224	Northern Group Training	JDE	05/01/06
226	Oce-Technologies	226	Oce-Technologies	JDE World	02/01/07
227	Oklahoma Publishing	227	Oklahoma Publishing	PSFT	02/28/07
228	Olin	228	Olin	PSFT	12/29/05
228	Olin	228	Olin	PSFT	08/01/06

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
229	On Assignment	229	On Assignment	JDE	10/01/06
231	Organon Mexicana	231	Organon Mexicana	JDE	01/01/08
232	Overwaitea Food Group	232	Overwaitea Food Group	PSFT	01/01/07
233	Oxford Global	233	Oxford Global	PSFT	09/23/06
233	Oxford Global	233	Oxford Global	PSFT	01/14/07
233	Oxford Global	233	Oxford Global	PSFT	01/28/07
234	Park Associates	234	Park Associates	PSFT	02/28/05
235	Parkview Health	235	Parkview Health	PSFT	01/01/07
235	Parkview Health	235	Parkview Health	PSFT	04/25/07
236	PCI Limited	236	PCI Limited	JDE	07/01/06
237	Pepsi Americas	237	Pepsi Americas	PSFT	10/04/05
237	Pepsi Americas	237	Pepsi Americas	PSFT	12/28/05
237	Pepsi Americas	237	Pepsi Americas	PSFT	12/31/05
237	Pepsi Americas	237	Pepsi Americas	PSFT	01/15/06
237	Pepsi Americas	237	Pepsi Americas	PSFT	07/31/06
237	Pepsi Americas	237	Pepsi Americas	PSFT	08/31/06
239	Petco	239	Petco	PSFT	06/02/07
239	Petco	239	Petco	PSFT	06/28/07
239	Petco	239	Petco	PSFT	06/29/07
239	Petco	239	Petco	PSFT	05/04/08
241	PetSmart	241	PetSmart	PSFT	09/27/06
242	Pfizer	242	Pfizer	PSFT	02/28/06
243	Phelps Dodge	243	Phelps Dodge	PSFT	02/18/07
243	Phelps Dodge	243	Phelps Dodge	PSFT	06/24/07
243	Phelps Dodge	243	Phelps Dodge	PSFT	02/23/08
244	Philadelphia Corporation of Aging	244	Philadelphia Corporation of Aging	PSFT	03/30/06
245	Pillsbury Winthrop	245	Pillsbury Winthrop	PSFT	05/11/07
246	Pomeroy IT Solutions	246	Pomeroy IT Solutions	SBL	04/23/05
248	Praxair	248	Praxair	PSFT	07/01/04
249	Pretty Products	249	Pretty Products	JDE	07/01/05
251	Prime Group Realty	251	Prime Group Realty	JDE	11/01/05
252	Progress Software	252	Progress Software	PSFT	02/28/06
253	Proliance	253	Proliance	JDE	09/01/07
253	Proliance	253	Proliance	JDE	06/10/08
254	ProQuest	254	ProQuest	PSFT	12/30/05
254	ProQuest	254	ProQuest	PSFT	09/18/06
255	Providence Health	255	Providence Health	PSFT	01/01/05
256	PSCU Financial Services	256	PSCU Financial Services	SBL	03/18/07
257	PTL Information Technology	257	PTL Information Technology	JDE	11/01/05
258	Quad Graphics	258	Quad Graphics	PSFT	08/28/04
259	Remy International	259	Remy International	PSFT	02/28/06
259	Remy International	259	Remy International	PSFT	03/05/06
259	Remy International	259	Remy International	PSFT	04/26/06
259	Remy International	259	Remy International	PSFT	06/30/06
259	Remy International	259	Remy International	PSFT	09/21/06
260	Rentway	260	Rentway	PSFT	07/17/04
260	Rentway	260	Rentway	PSFT	10/17/04

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
261	Richardson Electronics	261	Richardson Electronics	PSFT	06/30/08
261	Richardson Electronics	261	Richardson Electronics	PSFT	07/01/08
261	Richardson Electronics	261	Richardson Electronics	PSFT	10/27/08
261	Richardson Electronics	261	Richardson Electronics	PSFT	11/06/08
261	Richardson Electronics	261	Richardson Electronics	PSFT	11/10/08
261	Richardson Electronics	261	Richardson Electronics	PSFT	11/21/08
262	Richmond Power & Light	262	Richmond Power & Light	PSFT	11/16/06
264	Rockwell	264	Rockwell	SBL	10/01/06
265	Rockwood Pigments	265	Rockwood Pigments	JDE World	01/01/07
266	Rolls-Royce of NA	266	Rolls-Royce of NA	PSFT	09/23/05
267	Ronis	267	Ronis	JDE World	11/01/06
268	Ross	268	Ross	PSFT	02/16/07
268	Ross	268	Ross	PSFT	05/08/07
268	Ross	268	Ross	PSFT	05/10/07
268	Ross	268	Ross	PSFT	06/14/07
269	Rotkaeppchen Sektkellerei	269	Rotkaeppchen Sektkellerei	JDE World	04/01/06
270	Royal Holiday	270	Royal Holiday	JDE	01/01/07
271	RTKL	271	RTKL	PSFT	07/11/07
271	RTKL	271	RTKL	PSFT	07/31/07
271	RTKL	271	RTKL	PSFT	09/22/07
273	Saint Barnabas Health	273	Saint Barnabas Health	PSFT	02/24/02
273	Saint Barnabas Health	273	Saint Barnabas Health	PSFT	02/24/03
273	Saint Barnabas Health	273	Saint Barnabas Health	PSFT	02/24/04
274	Sandia Labs FCU	274	Sandia Labs FCU	JDE	10/01/06
278	Schaffner Holding	278	Schaffner Holding	JDE World	01/01/08
279	Schott North America	279	Schott North America	JDE	04/01/06
281	Seattle Public Schools	281	Seattle Public Schools	PSFT	09/01/05
282	Seven Seas	282	Seven Seas	JDE World	08/01/06
283	Shands Healthcare	283	Shands Healthcare	PSFT	10/27/06
283	Shands Healthcare	283	Shands Healthcare	PSFT	11/17/06
283	Shands Healthcare	283	Shands Healthcare	PSFT	05/27/07
283	Shands Healthcare	283	Shands Healthcare	PSFT	09/01/07
285	Simon Property	285	Simon Property	PSFT	06/25/06
285	Simon Property	285	Simon Property	PSFT	12/19/06
286	Sirva	286	Sirva	PSFT	05/22/05
288	Smart Centers	288	Smart Centers	SBL	09/16/06
290	Sony Pictures	290	Sony Pictures	PSFT	01/25/07
291	Southern California Edison	291	Southern California Edison	PSFT	06/30/06
291	Southern California Edison	291	Southern California Edison	PSFT	01/01/07
292	Spokane County	292	Spokane County	PSFT	06/17/07
295	St. Lukes Cornwall Hospital	295	St. Lukes Cornwall Hospital	PSFT	07/28/07
296	Standard Register	296	Standard Register	PSFT	04/15/07
296	Standard Register	296	Standard Register	SBL	01/15/07
296	Standard Register	296	Standard Register	SBL	04/27/07

	Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
	Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Oracle Canceled Contract Date
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528. The customers listed in the columns titled “Clarke Customer Name” and “Meyer Customer Name” in the chart below purchased support from TomorrowNow, Inc. for the

1 products listed until the date listed in the column titled “TN Service End Date.”

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	TN Service End Date
1	Abbott Laboratories	1	Abbott Laboratories	JDE	10/31/08
2	Abitibi	2	Abitibi	JDE	10/17/08
5	Ace Parking	5	Ace Parking	PSFT	09/01/08
6	ACH Food	6	ACH Food	JDE	09/30/08
7	ACN Europe	7	ACN Europe	JDE World	09/19/08
9	Acushnet	9	Acushnet	PSFT	07/31/08
11	AFLAC	11	AFLAC	PSFT	09/12/07
13	Ajinomoto	13	Ajinomoto	JDE	09/30/08
14	Akorn	14	Akorn	JDE	07/31/08
16	Alberto-Culver	16	Alberto-Culver	PSFT	10/31/08
16	Alberto-Culver	16	Alberto-Culver	SBL	10/31/08
18	Alcon Laboratories	18	Alcon Laboratories	PSFT	04/30/08
19	Allianz Australia	19	Allianz Australia	PSFT	10/31/08
20	Allianz Life	20	Allianz Life	PSFT	10/31/08
23	American Commercial Lines	23	American Commercial Lines	PSFT	09/19/08
25	American Media	25	American Media	PSFT	09/30/08
26	American Red Cross	26	American Red Cross	PSFT	09/30/08
27	Amgen	27	Amgen	JDE	12/31/07
28	AO Smith	28	AO Smith	PSFT	09/30/08
30	Apria Healthcare	30	Apria Healthcare	JDE	09/19/08
31	ARC	31	ARC	PSFT	04/15/05
32	Ariba	32	Ariba	PSFT	10/31/08
33	Arvato Services	33	Arvato Services	PSFT	12/31/07
36	ASTAR Air Cargo	36	ASTAR Air Cargo	PSFT	09/30/08
37	Atlantic Container Store	37	Atlantic Container Store	JDE	09/19/08
38	Atlantic Marine	38	Atlantic Marine	JDE	09/30/08
39	Autobuses de la Piedad	39	Autobuses de la Piedad	JDE	08/25/08
41	Baker Botts	41	Baker Botts	PSFT	10/24/08
42	Baptist Health System	42	Baptist Health System	PSFT	11/21/07
43	Barrie Hydro	43	Barrie Hydro	JDE	09/30/08
44	BASF AG	44	BASF AG	JDE	06/30/08
44	BASF AG	44	BASF AG	PSFT	09/19/08
45	Basler Electric	45	Basler Electric	JDE	08/06/08
46	Baxter International	46	Baxter International	PSFT	10/24/08
47	BBS Electronics	47	BBS Electronics	JDE	09/30/07
49	Beacon Industrial Group	49	Beacon Industrial Group	JDE	10/06/08
52	Big Lots	52	Big Lots	PSFT	09/30/08
53	Blue Cross Blue Shield of KS	53	Blue Cross Blue Shield of KS	PSFT	03/16/08
54	Blue Diamond Growers	54	Blue Diamond Growers	PSFT	09/30/08
55	BM Nagano	55	BM Nagano	JDE	09/30/08
56	Bonne Bell	56	Bonne Bell	JDE	09/30/08
57	Border Foods	57	Border Foods	JDE	10/03/08
58	Borders Group	58	Borders Group	PSFT	10/10/08
60	Brenco	60	Brenco	JDE	03/31/08

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	TN Service End Date
62	BT Fuze	62	BT Fuze	JDE	10/31/08
63	By Referral Only	63	By Referral Only	SBL	08/13/08
64	CA	64	CA	PSFT	05/15/06
66	Canning Vale	66	Canning Vale	JDE	07/31/08
67	Capital Group	67	Capital Group	PSFT	06/29/06
68	Captain D's	68	Captain D's	JDE	09/30/08
71	Caterpillar Underground	71	Caterpillar Underground	JDE	10/17/08
72	CC Industries	72	CC Industries	JDE	08/31/08
72	CC Industries	72	CC Industries	PSFT	08/31/08
73	Central Garden and Pet	73	Central Garden and Pet	JDE	07/01/07
74	Channing Bete	74	Channing Bete	JDE	09/30/08
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	09/19/08
78	City of Atlanta	78	City of Atlanta	PSFT	03/31/08
79	City of Flint	79	City of Flint	PSFT	10/30/06
80	City of Huntsville	80	City of Huntsville	PSFT	10/03/08
81	City of Medicine Hat	81	City of Medicine Hat	JDE	09/30/08
84	Clear Channel Management	84	Clear Channel Management	PSFT	08/28/08
85	CNH America	85	CNH America	JDE	07/31/08
86	Commerce Bank	86	Commerce Bank	PSFT	09/07/08
88	ConAgra Foods	88	ConAgra Foods	PSFT	10/10/08
89	Contico	89	Contico	JDE	09/05/08
91	Coors Brewing Company	91	Coors Brewing Company	PSFT	09/10/08
93	Coty Mexico	93	Coty Mexico	JDE	09/19/08
95	Crayola	95	Crayola	JDE	12/17/07
96	Crothall Services	96	Crothall Services	JDE	09/19/08
97	CSBP Limited	97	CSBP Limited	SBL	09/30/08
98	CSK Auto	98	CSK Auto	PSFT	08/31/07
100	Decorative Concepts	100	Decorative Concepts	JDE	09/19/08
101	Delta Dental Plan of Michigan	101	Delta Dental Plan of Michigan	PSFT	09/30/08
102	DHL Container Logistics	102	DHL Container Logistics	JDE World	10/31/08
103	Diamond Cluster	103	Diamond Cluster	PSFT	10/31/08
104	Diocesan Service	104	Diocesan Service	PSFT	07/15/08
105	Direct Energy Marketing	105	Direct Energy Marketing	PSFT	10/30/08
106	Dominion Homes	106	Dominion Homes	JDE	09/19/08
107	Drexel Heritage	107	Drexel Heritage	JDE	10/05/08
108	Durr	108	Durr	JDE	09/30/08
108	Durr	108	Durr	JDE World	09/30/08
109	E.Piphany	109	E.Piphany	PSFT	09/12/07
110	Eagle Family Foods	110	Eagle Family Foods	PSFT	11/30/07
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	10/24/08
112	Ecolab	112	Ecolab	JDE	10/31/08
113	Education Direct	113	Education Direct	JDE	07/31/08
115	Electrolux IT Solutions	115	Electrolux IT Solutions	JDE World	10/31/08
116	Empire District Electric	116	Empire District Electric	PSFT	09/30/08
117	Employees' Retirement	117	Employees' Retirement System of GA	PSFT	05/31/06

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	TN Service End Date
	System of GA				
120	Fabrica Nacional	120	Fabrica Nacional	JDE	10/19/08
121	Fairchild Semiconductor	121	Fairchild Semiconductor	PSFT	03/31/08
122	Federated Services	122	Federated Services	PSFT	10/17/08
127	Flint Group Incorporated	127	Flint Group Incorporated	JDE	07/31/08
128	Florida Tile Industries	128	Florida Tile Industries	PSFT	02/28/05
130	Foreign Candy	130	Foreign Candy	JDE	09/19/08
131	Forth Ports	131	Forth Ports	JDE World	10/31/08
132	Foss Maritime	132	Foss Maritime	JDE	10/31/08
135	Fundamental Administrative Services	135	Fundamental Administrative Services	PSFT	09/30/08
137	Genesis Healthcare	137	Genesis Healthcare	PSFT	09/30/08
138	George Weston Bakeries	138	George Weston Bakeries	PSFT	12/31/05
140	GKN Driveline North America	140	GKN Driveline North America	PSFT	03/31/08
143	Greater Vancouver Regional District	143	Greater Vancouver Regional District	PSFT	08/19/08
144	Gregg Appliances	144	Gregg Appliances	PSFT	10/03/08
145	Grupo Convermex	145	Grupo Convermex	JDE	09/30/08
146	Gruppo GALBANI	146	Gruppo GALBANI	JDE World	12/31/07
148	Harley-Davidson	148	Harley-Davidson	JDE World	08/11/08
149	Haworth	149	Haworth	PSFT	09/19/08
150	Helzberg Diamond Shops	150	Helzberg Diamond Shops	JDE	09/30/08
151	Henry Production	151	Henry Production	JDE	09/30/08
152	Herbert Waldmann Lichttechnik	152	Herbert Waldmann Lichttechnik	JDE World	09/30/08
154	High Industries	154	High Industries	PSFT	12/15/07
155	Hitachi Global Storage Technologies	155	Hitachi Global Storage Technologies	PSFT	09/30/08
157	Home Depot	157	Home Depot	PSFT	10/16/08
158	Honeywell	158	Honeywell	PSFT	09/19/08
160	Host Communications	160	Host Communications	JDE	12/31/06
161	Hubbard Construction	161	Hubbard Construction	JDE	02/28/07
163	Hydro One Networks	163	Hydro One Networks	PSFT	10/03/08
166	II Stanley	166	II Stanley	JDE	09/19/08
168	Informatica	168	Informatica	PSFT	09/05/08
169	Information Handling Service	169	Information Handling Service	PSFT	08/31/06
171	Interpublic Group	171	Interpublic Group	PSFT	10/10/08
173	Intraware	173	Intraware	PSFT	11/16/07
174	J.B. Hunt	174	J.B. Hunt	PSFT	10/01/08
175	J.W. Harris	175	J.W. Harris	JDE	08/31/06
176	JALPAK International	176	JALPAK International	JDE	05/31/08
177	Japan Travel Bureau Asia	177	Japan Travel Bureau Asia	JDE	12/31/06
178	Just Born	178	Just Born	JDE	09/30/08
179	Kellstrom Industries	179	Kellstrom Industries	JDE	10/12/08
180	Kent County Michigan	180	Kent County Michigan	PSFT	09/30/08
181	Kentucky Fried Chicken	181	Kentucky Fried Chicken	JDE	09/30/08
183	KMC Telecom Holdings	183	KMC Telecom Holdings	PSFT	06/30/06

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	TN Service End Date
184	Koontz-Wagner	184	Koontz-Wagner	JDE	09/19/08
185	Laird Plastics	185	Laird Plastics	JDE	10/31/08
186	Lakeside Manufacturing	186	Lakeside Manufacturing	JDE	09/19/08
187	Lexmark	187	Lexmark	JDE	10/29/08
189	Linc Facility Services	189	Linc Facility Services	PSFT	09/30/08
190	Lincoln Property	190	Lincoln Property	JDE	09/30/08
191	Lion ReSources	191	Lion ReSources	PSFT	10/17/08
192	Littleton Public Schools	192	Littleton Public Schools	JDE	07/31/08
194	Longaberger	194	Longaberger	PSFT	09/30/08
195	LS Management	195	LS Management	PSFT	09/30/08
196	Madix	196	Madix	SBL	10/17/08
197	Magee Clothing	197	Magee Clothing	JDE World	09/19/08
199	Manugistics	199	Manugistics	PSFT	08/24/07
201	McLennan	201	McLennan	PSFT	03/03/08
202	Merck	202	Merck	JDE	10/24/08
202	Merck	202	Merck	PSFT	10/24/08
203	Metex	203	Metex	JDE	09/19/08
204	Metro Machine	204	Metro Machine	JDE	09/30/08
205	Mieco	205	Mieco	PSFT	02/27/08
206	MKS	206	MKS	JDE	10/17/08
206	MKS	206	MKS	SBL	10/17/08
207	Municipality of Anchorage	207	Municipality of Anchorage	PSFT	07/31/08
208	Murphy-Brown	208	Murphy-Brown	JDE	10/03/08
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	10/24/08
210	National Americas Investment	210	National Americas Investment	PSFT	10/05/08
211	National Foods	211	National Foods	JDE	09/30/08
211	National Foods	211	National Foods	PSFT	09/30/08
212	National Manufacturing	212	National Manufacturing	JDE	04/01/08
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	09/30/08
216	Neaton Auto Products Mfg.	216	Neaton Auto Products Mfg.	JDE	09/30/08
217	New Era Cap	217	New Era Cap	PSFT	10/31/08
218	Newport	218	Newport	PSFT	12/19/07
222	Nitta Casings	222	Nitta Casings	JDE	09/30/08
223	Norstan Communications	223	Norstan Communications	PSFT	09/30/08
224	Northern Group Training	224	Northern Group Training	JDE	05/25/07
226	Oce-Technologies	226	Oce-Technologies	JDE World	10/31/08
227	Oklahoma Publishing	227	Oklahoma Publishing	PSFT	09/05/08
228	Olin	228	Olin	PSFT	10/01/08
229	On Assignment	229	On Assignment	JDE	05/15/08
231	Organon Mexicana	231	Organon Mexicana	JDE	09/19/08
232	Overwaitea Food Group	232	Overwaitea Food Group	PSFT	01/01/08
233	Oxford Global	233	Oxford Global	PSFT	08/14/07
234	Park Associates	234	Park Associates	PSFT	09/30/08
235	Parkview Health	235	Parkview Health	PSFT	09/30/08
236	PCI Limited	236	PCI Limited	JDE	09/19/08
237	Pepsi Americas	237	Pepsi Americas	PSFT	02/29/08
239	Petco	239	Petco	PSFT	09/30/08

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	TN Service End Date
241	PetSmart	241	PetSmart	PSFT	12/31/07
242	Pfizer	242	Pfizer	PSFT	09/30/08
243	Phelps Dodge	243	Phelps Dodge	PSFT	09/30/08
244	Philadelphia Corporation of Aging	244	Philadelphia Corporation of Aging	PSFT	08/07/08
245	Pillsbury Winthrop	245	Pillsbury Winthrop	PSFT	10/24/08
246	Pomeroy IT Solutions	246	Pomeroy IT Solutions	SBL	07/31/08
248	Praxair	248	Praxair	PSFT	06/30/05
249	Pretty Products	249	Pretty Products	JDE	10/24/08
251	Prime Group Realty	251	Prime Group Realty	JDE	09/19/08
252	Progress Software	252	Progress Software	PSFT	02/18/08
253	Proliance	253	Proliance	JDE	09/30/08
254	ProQuest	254	ProQuest	PSFT	09/30/07
255	Providence Health	255	Providence Health	PSFT	06/30/06
256	PSCU Financial Services	256	PSCU Financial Services	SBL	03/18/08
257	PTL Information Technology	257	PTL Information Technology	JDE	10/15/08
258	Quad Graphics	258	Quad Graphics	PSFT	02/29/08
259	Remy International	259	Remy International	PSFT	06/30/08
260	Rentway	260	Rentway	PSFT	07/18/08
261	Richardson Electronics	261	Richardson Electronics	PSFT	09/30/08
262	Richmond Power & Light	262	Richmond Power & Light	PSFT	09/30/08
264	Rockwell	264	Rockwell	SBL	02/20/08
265	Rockwood Pigments	265	Rockwood Pigments	JDE World	09/30/08
266	Rolls-Royce of NA	266	Rolls-Royce of NA	PSFT	08/19/07
267	Ronis	267	Ronis	JDE World	09/30/08
268	Ross	268	Ross	PSFT	04/03/08
269	Rotkaeppchen Sektkellerei	269	Rotkaeppchen Sektkellerei	JDE World	05/31/07
270	Royal Holiday	270	Royal Holiday	JDE	09/30/08
271	RTKL	271	RTKL	PSFT	01/31/08
273	Saint Barnabas Health	273	Saint Barnabas Health	PSFT	05/31/08
274	Sandia Labs FCU	274	Sandia Labs FCU	JDE	09/30/08
278	Schaffner Holding	278	Schaffner Holding	JDE World	09/19/08
279	Schott North America	279	Schott North America	JDE	03/31/08
281	Seattle Public Schools	281	Seattle Public Schools	PSFT	08/31/07
282	Seven Seas	282	Seven Seas	JDE World	09/19/08
283	Shands Healthcare	283	Shands Healthcare	PSFT	09/30/08
285	Simon Property	285	Simon Property	PSFT	09/30/08
286	Sirva	286	Sirva	PSFT	09/30/08
288	Smart Centers	288	Smart Centers	SBL	09/30/08
290	Sony Pictures	290	Sony Pictures	PSFT	08/19/08
291	Southern California Edison	291	Southern California Edison	PSFT	08/31/08
292	Spokane County	292	Spokane County	PSFT	07/31/08
293	SPX Cooling Technology	293	SPX Cooling Technology	JDE	09/30/08
294	SPX Flow Technology	294	SPX Flow Technology	JDE	09/30/08
295	St. Lukes Cornwall Hospital	295	St. Lukes Cornwall Hospital	PSFT	09/27/08

	Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
	Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	TN Service End Date
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3	296	Standard Register	296	Standard Register	PSFT	09/30/08
4	296	Standard Register	296	Standard Register	SBL	09/30/08
5	297	Stanley Electric	297	Stanley Electric	JDE	09/19/08
6	298	StarHub	298	StarHub	PSFT	09/30/08
7	299	Stora Enso North America	299	Stora Enso North America	JDE	09/30/08
8	300	Suburban Propane	300	Suburban Propane	PSFT	09/30/08
9	301	Susquehanna Pfaltzgraff	301	Susquehanna Pfaltzgraff	PSFT	07/06/06
10	302	Sybase	302	Sybase	PSFT	09/19/08
11	303	Syngenta Crop Protection	303	Syngenta Crop Protection	PSFT	09/30/08
12	304	Telapex	304	Telapex	PSFT	09/30/08
13	305	Texas Association of School Boards	305	Texas Association of School Boards	JDE	09/30/08
14	307	Texas Medical Association	307	Texas Medical Association	JDE	09/30/08
15	308	Textile Management	308	Textile Management	JDE	09/30/08
16	310	Toshiba America Info Systems	310	Toshiba America Info Systems	PSFT	08/29/08
17	311	Transfield Services New Zealand	311	Transfield Services New Zealand	JDE	09/30/08
18	313	Trends International	313	Trends International	PSFT	10/31/08
19	314	Trenwick America	314	Trenwick America	PSFT	09/30/08
20	316	TriQuint Semiconductor	316	TriQuint Semiconductor	PSFT	07/30/06
21	318	United Dominion Realty	318	United Dominion Realty	PSFT	02/04/08
22	320	Universitas 21 Global	320	Universitas 21 Global	PSFT	09/19/08
23	324	UPM-Kymmene UK (Shotton)	324	UPM-Kymmene UK (Shotton)	JDE World	09/30/08
24	332	Vanguard Managed Solutions	332	Vanguard Managed Solutions	JDE	03/14/08
25	333	Vector Limited	333	Vector Limited	JDE	06/19/08
26	334	Veka	334	Veka	JDE	09/23/08
27	335	Veolia Water Indianapolis	335	Veolia Water Indianapolis	PSFT	05/31/07
28	337	VSM Group	337	VSM Group	JDE World	09/30/08
	339	W.C. Wood	339	W.C. Wood	JDE	09/19/08
	340	Wabash National	340	Wabash National	JDE	03/31/06
	343	Watson Laboratories	343	Watson Laboratories	SBL	10/17/08
	344	Weil-McLain	344	Weil-McLain	JDE	09/30/08
	345	Wellbridge	345	Wellbridge	PSFT	11/29/07
	346	Wendy's	346	Wendy's	PSFT	09/19/08
	349	Westcon	349	Westcon	JDE	10/17/08
	350	Wheeler's	350	Wheeler's	JDE	11/30/07
	352	World Kitchen (Asia Pacific)	352	World Kitchen (Asia Pacific)	JDE	06/30/07
	353	WorldTex	353	WorldTex	JDE	09/30/08
	354	WWL Vehicle Services	354	WWL Vehicle Services	JDE	10/05/08
	356	Yazaki North America	356	Yazaki North America	JDE	10/15/08
	358	ZMC Technologies	358	ZMC Technologies	JDE	09/30/08

529. The customers listed in the columns titled “Clarke Customer Name” and “Meyer Customer Name” in the chart below purchased support from TomorrowNow, Inc. for the



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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
28	AO Smith	28	AO Smith	PSFT	3,860
30	Apria Healthcare	30	Apria Healthcare	JDE	383,362
31	ARC	31	ARC	PSFT	111,578
32	Ariba	32	Ariba	PSFT	160,837
33	Arvato Services	33	Arvato Services	PSFT	32,965
33	Arvato Services	33	Arvato Services	PSFT	-
33	Arvato Services	33	Arvato Services	PSFT	5,583
36	ASTAR Air Cargo	36	ASTAR Air Cargo	PSFT	1,860
36	ASTAR Air Cargo	36	ASTAR Air Cargo	PSFT	93,440
37	Atlantic Container Store	37	Atlantic Container Store	JDE	3,470
38	Atlantic Marine	38	Atlantic Marine	JDE	72,352
39	Autobuses de la Piedad	39	Autobuses de la Piedad	JDE	46,168
41	Baker Botts	41	Baker Botts	PSFT	63,444
41	Baker Botts	41	Baker Botts	PSFT	6,516
41	Baker Botts	41	Baker Botts	PSFT	13,740
42	Baptist Health System	42	Baptist Health System	PSFT	231,432
43	Barrie Hydro	43	Barrie Hydro	JDE	20,335
44	BASF AG	44	BASF AG	JDE	6,083
44	BASF AG	44	BASF AG	JDE	698,500
44	BASF AG	44	BASF AG	JDE	137,930
44	BASF AG	44	BASF AG	JDE	331,966
44	BASF AG	44	BASF AG	PSFT	144,229
45	Basler Electric	45	Basler Electric	JDE	7,676
45	Basler Electric	45	Basler Electric	JDE	202,847
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	4,663
46	Baxter International	46	Baxter International	PSFT	111,901
46	Baxter International	46	Baxter International	PSFT	439,968
47	BBS Electronics	47	BBS Electronics	JDE	11,776
49	Beacon Industrial Group	49	Beacon Industrial Group	JDE	20,419
52	Big Lots	52	Big Lots	PSFT	48,400
52	Big Lots	52	Big Lots	PSFT	443,090
53	Blue Cross Blue Shield of KS	53	Blue Cross Blue Shield of KS	PSFT	61,985
53	Blue Cross Blue Shield of KS	53	Blue Cross Blue Shield of KS	PSFT	3,860
54	Blue Diamond Growers	54	Blue Diamond Growers	PSFT	43,248
55	BM Nagano	55	BM Nagano	JDE	4,256
56	Bonne Bell	56	Bonne Bell	JDE	89,460
57	Border Foods	57	Border Foods	JDE	35,909

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
58	Borders Group	58	Borders Group	PSFT	365,135
58	Borders Group	58	Borders Group	PSFT	129,510
60	Brenco	60	Brenco	JDE	87,025
62	BT Fuze	62	BT Fuze	JDE	14,983
63	By Referral Only	63	By Referral Only	SBL	34,125
64	CA	64	CA	PSFT	517,511
66	Canning Vale	66	Canning Vale	JDE	57,895
67	Capital Group	67	Capital Group	PSFT	149,278
68	Captain D's	68	Captain D's	JDE	53,933
71	Caterpillar Underground	71	Caterpillar Underground	JDE	57,558
72	CC Industries	72	CC Industries	JDE	12,267
72	CC Industries	72	CC Industries	PSFT	265,314
73	Central Garden and Pet	73	Central Garden and Pet	JDE	68,405
74	Channing Bete	74	Channing Bete	JDE	115,750
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	14,200
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	43,648
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	189,960
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	6,320
78	City of Atlanta	78	City of Atlanta	PSFT	253,350
79	City of Flint	79	City of Flint	PSFT	109,852
80	City of Huntsville	80	City of Huntsville	PSFT	111,146
81	City of Medicine Hat	81	City of Medicine Hat	JDE	21,682
84	Clear Channel Management	84	Clear Channel Management	PSFT	69,326
84	Clear Channel Management	84	Clear Channel Management	PSFT	652,281
85	CNH America	85	CNH America	JDE	390,533
86	Commerce Bank	86	Commerce Bank	PSFT	66,828
86	Commerce Bank	86	Commerce Bank	PSFT	10,855
86	Commerce Bank	86	Commerce Bank	PSFT	3,860
88	ConAgra Foods	88	ConAgra Foods	PSFT	700,767
88	ConAgra Foods	88	ConAgra Foods	PSFT	211,989
89	Contico	89	Contico	JDE	49,407
91	Coors Brewing Company	91	Coors Brewing Company	PSFT	76,449
93	Coty Mexico	93	Coty Mexico	JDE	34,192
95	Crayola	95	Crayola	JDE	25,000
96	Crothall Services	96	Crothall Services	JDE	33,712
98	CSK Auto	98	CSK Auto	PSFT	157,265
100	Decorative Concepts	100	Decorative Concepts	JDE	201,250
101	Delta Dental Plan of Michigan	101	Delta Dental Plan of Michigan	PSFT	269,953
102	DHL Container Logistics	102	DHL Container Logistics	JDE World	110,397
103	Diamond Cluster	103	Diamond Cluster	PSFT	191,368
104	Diocesan Service	104	Diocesan Service	PSFT	119,979

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
105	Direct Energy Marketing	105	Direct Energy Marketing	PSFT	100,724
106	Dominion Homes	106	Dominion Homes	JDE	45,992
107	Drexel Heritage	107	Drexel Heritage	JDE	101,997
108	Durr	108	Durr	JDE World	4,868
109	E.Piphany	109	E.Piphany	PSFT	194,189
110	Eagle Family Foods	110	Eagle Family Foods	PSFT	149,796
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	34,375
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	136,902
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	211,980
112	Ecolab	112	Ecolab	JDE	431,057
113	Education Direct	113	Education Direct	JDE	247,273
115	Electrolux IT Solutions	115	Electrolux IT Solutions	JDE World	491,279
116	Empire District Electric	116	Empire District Electric	PSFT	144,238
116	Empire District Electric	116	Empire District Electric	PSFT	1,860
117	Employees' Retirement System of GA	117	Employees' Retirement System of GA	PSFT	275,219
120	Fabrica Nacional	120	Fabrica Nacional	JDE	122,811
121	Fairchild Semiconductor	121	Fairchild Semiconductor	PSFT	798,242
122	Federated Services	122	Federated Services	PSFT	82,302
127	Flint Group Incorporated	127	Flint Group Incorporated	JDE	67,105
128	Florida Tile Industries	128	Florida Tile Industries	PSFT	57,084
130	Foreign Candy	130	Foreign Candy	JDE	9,452
131	Forth Ports	131	Forth Ports	JDE World	45,904
132	Foss Maritime	132	Foss Maritime	JDE	101,293
135	Fundamental Administrative Services	135	Fundamental Administrative Services	PSFT	808,407
137	Genesis Healthcare	137	Genesis Healthcare	PSFT	173,588
138	George Weston Bakeries	138	George Weston Bakeries	PSFT	178,970
138	George Weston Bakeries	138	George Weston Bakeries	PSFT	245,643
140	GKN Driveline North America	140	GKN Driveline North America	PSFT	162,012
140	GKN Driveline North America	140	GKN Driveline North America	PSFT	42,099
143	Greater Vancouver Regional District	143	Greater Vancouver Regional District	PSFT	154,718
144	Gregg Appliances	144	Gregg Appliances	PSFT	80,252
145	Grupo Convermex	145	Grupo Convermex	JDE	14,629
146	Gruppo GALBANI	146	Gruppo GALBANI	JDE World	106,386
148	Harley-Davidson	148	Harley-Davidson	JDE World	86,436
149	Haworth	149	Haworth	PSFT	54,960
150	Helzberg Diamond Shops	150	Helzberg Diamond Shops	JDE	60,482
151	Henry Production	151	Henry Production	JDE	31,808

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
152	Herbert Waldmann Lichttechnik	152	Herbert Waldmann Lichttechnik	JDE World	-
154	High Industries	154	High Industries	PSFT	98,951
155	Hitachi Global Storage Technologies	155	Hitachi Global Storage Technologies	PSFT	676,312
155	Hitachi Global Storage Technologies	155	Hitachi Global Storage Technologies	PSFT	3,976
157	Home Depot	157	Home Depot	PSFT	1,250,775
158	Honeywell	158	Honeywell	PSFT	94,721
158	Honeywell	158	Honeywell	PSFT	719,250
160	Host Communications	160	Host Communications	JDE	35,557
161	Hubbard Construction	161	Hubbard Construction	JDE	-
163	Hydro One Networks	163	Hydro One Networks	PSFT	638,464
166	II Stanley	166	II Stanley	JDE	68,139
168	Informatica	168	Informatica	PSFT	25,921
168	Informatica	168	Informatica	PSFT	3,860
169	Information Handling Service	169	Information Handling Service	PSFT	21,160
171	Interpublic Group	171	Interpublic Group	PSFT	440,855
173	Intraware	173	Intraware	PSFT	45,000
174	J.B. Hunt	174	J.B. Hunt	PSFT	656,159
174	J.B. Hunt	174	J.B. Hunt	PSFT	15,554
175	J.W. Harris	175	J.W. Harris	JDE	50,176
176	JALPAK International	176	JALPAK International	JDE	21,541
177	Japan Travel Bureau Asia	177	Japan Travel Bureau Asia	JDE	2,972
178	Just Born	178	Just Born	JDE	25,575
179	Kellstrom Industries	179	Kellstrom Industries	JDE	5,335
180	Kent County Michigan	180	Kent County Michigan	PSFT	-
180	Kent County Michigan	180	Kent County Michigan	PSFT	165,753
181	Kentucky Fried Chicken	181	Kentucky Fried Chicken	JDE	2,170
183	KMC Telecom Holdings	183	KMC Telecom Holdings	PSFT	99,209
184	Koontz-Wagner	184	Koontz-Wagner	JDE	38,017
185	Laird Plastics	185	Laird Plastics	JDE	243,527
186	Lakeside Manufacturing	186	Lakeside Manufacturing	JDE	16,599
187	Lexmark	187	Lexmark	JDE	597,701
187	Lexmark	187	Lexmark	JDE	30,667
189	Linc Facility Services	189	Linc Facility Services	PSFT	10,798
189	Linc Facility Services	189	Linc Facility Services	PSFT	1,877,500
189	Linc Facility Services	189	Linc Facility Services	PSFT	57,071
190	Lincoln Property	190	Lincoln Property	JDE	63,275
191	Lion ReSources	191	Lion ReSources	PSFT	372,417
191	Lion ReSources	191	Lion ReSources	PSFT	12,720
191	Lion ReSources	191	Lion ReSources	PSFT	20,156
192	Littleton Public Schools	192	Littleton Public Schools	JDE	33,151
194	Longaberger	194	Longaberger	PSFT	521,903
195	LS Management	195	LS Management	PSFT	312,951
195	LS Management	195	LS Management	PSFT	3,860
196	Madix	196	Madix	SBL	49,577

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
197	Magee Clothing	197	Magee Clothing	JDE World	20,969
199	Manugistics	199	Manugistics	PSFT	104,665
199	Manugistics	199	Manugistics	PSFT	104,938
201	McLennan	201	McLennan	PSFT	105,106
202	Merck	202	Merck	JDE	1,353,912
202	Merck	202	Merck	PSFT	355,669
202	Merck	202	Merck	PSFT	36,703
203	Metex	203	Metex	JDE	39,349
204	Metro Machine	204	Metro Machine	JDE	93,526
205	Mieco	205	Mieco	PSFT	137,720
206	MKS	206	MKS	JDE	3,184
206	MKS	206	MKS	SBL	44,163
207	Municipality of Anchorage	207	Municipality of Anchorage	PSFT	344,474
208	Murphy-Brown	208	Murphy-Brown	JDE	131,211
208	Murphy-Brown	208	Murphy-Brown	JDE	21,387
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	6,320
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	575,943
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	25,320
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	9,216
210	National Americas Investment	210	National Americas Investment	PSFT	101,575
211	National Foods	211	National Foods	JDE	7,289
211	National Foods	211	National Foods	JDE	8,146
211	National Foods	211	National Foods	JDE	20,304
211	National Foods	211	National Foods	JDE	55,716
211	National Foods	211	National Foods	PSFT	62,816
212	National Manufacturing	212	National Manufacturing	JDE	149,452
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	30,081
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	10,381
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	2,291
216	Neaton Auto Products Mfg.	216	Neaton Auto Products Mfg.	JDE	57,781
217	New Era Cap	217	New Era Cap	PSFT	79,602
217	New Era Cap	217	New Era Cap	PSFT	168,750
217	New Era Cap	217	New Era Cap	PSFT	18,268
218	Newport	218	Newport	PSFT	20,325
222	Nitta Casings	222	Nitta Casings	JDE	22,005
223	Norstan Communications	223	Norstan Communications	PSFT	10,751
223	Norstan Communications	223	Norstan Communications	PSFT	73,620
223	Norstan Communications	223	Norstan Communications	PSFT	344,948
224	Northern Group Training	224	Northern Group Training	JDE	4,142
226	Oce-Technologies	226	Oce-Technologies	JDE World	-
227	Oklahoma Publishing	227	Oklahoma Publishing	PSFT	44,035
228	Olin	228	Olin	PSFT	220,516
228	Olin	228	Olin	PSFT	6,320

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
229	On Assignment	229	On Assignment	JDE	6,607
231	Organon Mexicana	231	Organon Mexicana	JDE	28,093
232	Overwaitea Food Group	232	Overwaitea Food Group	PSFT	322,992
233	Oxford Global	233	Oxford Global	PSFT	225,000
233	Oxford Global	233	Oxford Global	PSFT	1,547
233	Oxford Global	233	Oxford Global	PSFT	-
234	Park Associates	234	Park Associates	PSFT	175,881
235	Parkview Health	235	Parkview Health	PSFT	336,640
235	Parkview Health	235	Parkview Health	PSFT	3,860
236	PCI Limited	236	PCI Limited	JDE	11,867
237	Pepsi Americas	237	Pepsi Americas	PSFT	6,320
237	Pepsi Americas	237	Pepsi Americas	PSFT	116,190
237	Pepsi Americas	237	Pepsi Americas	PSFT	93,678
237	Pepsi Americas	237	Pepsi Americas	PSFT	684,075
237	Pepsi Americas	237	Pepsi Americas	PSFT	23,316
237	Pepsi Americas	237	Pepsi Americas	PSFT	82,222
239	Petco	239	Petco	PSFT	153,355
239	Petco	239	Petco	PSFT	227,250
239	Petco	239	Petco	PSFT	194,191
239	Petco	239	Petco	PSFT	28,336
241	PetSmart	241	PetSmart	PSFT	388,000
242	Pfizer	242	Pfizer	PSFT	678,699
243	Phelps Dodge	243	Phelps Dodge	PSFT	40,128
243	Phelps Dodge	243	Phelps Dodge	PSFT	399,531
243	Phelps Dodge	243	Phelps Dodge	PSFT	53,680
244	Philadelphia Corporation of Aging	244	Philadelphia Corporation of Aging	PSFT	107,984
245	Pillsbury Winthrop	245	Pillsbury Winthrop	PSFT	161,661
246	Pomeroy IT Solutions	246	Pomeroy IT Solutions	SBL	380,875
249	Pretty Products	249	Pretty Products	JDE	86,400
251	Prime Group Realty	251	Prime Group Realty	JDE	19,442
252	Progress Software	252	Progress Software	PSFT	126,684
253	Proliance	253	Proliance	JDE	135,182
253	Proliance	253	Proliance	JDE	18,503
254	ProQuest	254	ProQuest	PSFT	110,439
254	ProQuest	254	ProQuest	PSFT	7,980
255	Providence Health	255	Providence Health	PSFT	75,500
256	PSCU Financial Services	256	PSCU Financial Services	SBL	45,407
257	PTL Information Technology	257	PTL Information Technology	JDE	463,173
259	Remy International	259	Remy International	PSFT	31,317
259	Remy International	259	Remy International	PSFT	3,860
259	Remy International	259	Remy International	PSFT	159,555
259	Remy International	259	Remy International	PSFT	26,500
259	Remy International	259	Remy International	PSFT	11,655
260	Rentway	260	Rentway	PSFT	54,532
260	Rentway	260	Rentway	PSFT	221,714
261	Richardson Electronics	261	Richardson Electronics	PSFT	591,048

	Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
	Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
296	Standard Register	296	Standard Register	PSFT	510,758
296	Standard Register	296	Standard Register	SBL	555,169
296	Standard Register	296	Standard Register	SBL	24,750
297	Stanley Electric	297	Stanley Electric	JDE	32,211
298	StarHub	298	StarHub	PSFT	94,970
298	StarHub	298	StarHub	PSFT	20,437
299	Stora Enso North America	299	Stora Enso North America	JDE	390,705
299	Stora Enso North America	299	Stora Enso North America	JDE	52,066
300	Suburban Propane	300	Suburban Propane	PSFT	22,100
301	Susquehanna Pfaltzgraff	301	Susquehanna Pfaltzgraff	PSFT	97,916
302	Sybase	302	Sybase	PSFT	225,000
303	Syngenta Crop Protection	303	Syngenta Crop Protection	PSFT	5,500
303	Syngenta Crop Protection	303	Syngenta Crop Protection	PSFT	304,202
304	Telapex	304	Telapex	PSFT	66,777
305	Texas Association of School Boards	305	Texas Association of School Boards	JDE	26,390
307	Texas Medical Association	307	Texas Medical Association	JDE	27,801
308	Textile Management	308	Textile Management	JDE	28,126
310	Toshiba America Info Systems	310	Toshiba America Info Systems	PSFT	180,896
311	Transfield Services New Zealand	311	Transfield Services New Zealand	JDE	93,981
313	Trends International	313	Trends International	PSFT	36,593
314	Trenwick America	314	Trenwick America	PSFT	55,873
316	TriQuint Semiconductor	316	TriQuint Semiconductor	PSFT	62,396
318	United Dominion Realty	318	United Dominion Realty	PSFT	160,399
320	Universitas 21 Global	320	Universitas 21 Global	PSFT	4,927
320	Universitas 21 Global	320	Universitas 21 Global	PSFT	26,544
320	Universitas 21 Global	320	Universitas 21 Global	PSFT	1,759
320	Universitas 21 Global	320	Universitas 21 Global	PSFT	19,908
324	UPM-Kymmene UK (Shotton)	324	UPM-Kymmene UK (Shotton)	JDE World	14,611
332	Vanguard Managed Solutions	332	Vanguard Managed Solutions	JDE	62,244
333	Vector Limited	333	Vector Limited	JDE	114,667
334	Veka	334	Veka	JDE	110,153
335	Veolia Water Indianapolis	335	Veolia Water Indianapolis	PSFT	69,908
337	VSM Group	337	VSM Group	JDE World	-
339	W.C. Wood	339	W.C. Wood	JDE	93,195
340	Wabash National	340	Wabash National	JDE	298,971
343	Watson Laboratories	343	Watson Laboratories	SBL	34,943
344	Weil-McLain	344	Weil-McLain	JDE	40,000
345	Wellbridge	345	Wellbridge	PSFT	35,570
346	Wendy's	346	Wendy's	PSFT	53,301
346	Wendy's	346	Wendy's	PSFT	677,211
349	Westcon	349	Westcon	JDE	222,460
350	Wheeler's	350	Wheeler's	JDE	85,206

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Last Annual Paid Amount
352	World Kitchen (Asia Pacific)	352	World Kitchen (Asia Pacific)	JDE	15,884
353	WorldTex	353	WorldTex	JDE	102,783
354	WWL Vehicle Services	354	WWL Vehicle Services	JDE	65,880
356	Yazaki North America	356	Yazaki North America	JDE	537,528
358	ZMC Technologies	358	ZMC Technologies	JDE	4,562

530. The customers listed in the columns titled “Clarke Customer Name” and “Meyer Customer Name” in the chart below purchased support from TomorrowNow, Inc. for the products listed in the columns titled “Product Line” and “Product Line Detail.” Prior to purchasing support from TomorrowNow, Inc., these customers paid Oracle for support the listed products.

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail
1	Abbott Laboratories	1	Abbott Laboratories	JDE	FMS, SCM, Other
2	Abitibi	2	Abitibi	JDE	FMS, SCM, HCM, Other
5	Ace Parking	5	Ace Parking	PSFT	FMS, Other
6	ACH Food	6	ACH Food	JDE	FMS, Other
7	ACN Europe	7	ACN Europe	JDE	FMS
9	Acushnet	9	Acushnet	PSFT	FMS, SCM, Other
11	AFLAC	11	AFLAC	PSFT	HCM, Other
13	Ajinomoto	13	Ajinomoto	JDE	FMS, SCM, Other
14	Akorn	14	Akorn	JDE	FMS, SCM, Other
16	Alberto-Culver	16	Alberto-Culver	SBL	CRM
16	Alberto-Culver	16	Alberto-Culver	PSFT	SCM, Other
18	Alcon Laboratories	18	Alcon Laboratories	PSFT	HCM, Other
19	Allianz Australia	19	Allianz Australia	PSFT	FMS, SCM, Other
20	Allianz Life	20	Allianz Life	PSFT	FMS, SCM, HCM, Other
23	American Commercial Lines	23	American Commercial Lines	PSFT	FMS, SCM, Other
25	American Media	25	American Media	PSFT	FMS, SCM, HCM, Other
26	American Red Cross	26	American Red Cross	PSFT	FMS, SCM, HCM, Other
27	Amgen	27	Amgen	JDE	FMS, SCM, Other
28	AO Smith	28	AO Smith	PSFT	FMS, HCM, Other
30	Apria Healthcare	30	Apria Healthcare	JDE	FMS, SCM, Other
31	ARC	31	ARC	PSFT	HCM
32	Ariba	32	Ariba	PSFT	FMS, SCM, HCM, Other
33	Arvato Services	33	Arvato Services	PSFT	FMS, SCM, Other
36	ASTAR Air Cargo	36	ASTAR Air Cargo	PSFT	FMS, SCM, HCM, Other
37	Atlantic Container Store	37	Atlantic Container Store	JDE	FMS, Other
38	Atlantic Marine	38	Atlantic Marine	JDE	FMS, SCM, HCM, Other
39	Autobuses de la Piedad	39	Autobuses de la Piedad	JDE	FMS, SCM, Other

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail
41	Baker Botts	41	Baker Botts	PSFT	HCM, Other
42	Baptist Health System	42	Baptist Health System	PSFT	FMS, SCM, Other
43	Barrie Hydro	43	Barrie Hydro	JDE	FMS, SCM, HCM
44	BASF AG	44	BASF AG	PSFT	HCM, Other
44	BASF AG	44	BASF AG	JDE	FMS, SCM, Other
45	Basler Electric	45	Basler Electric	JDE	FMS, SCM, HCM, Other
46	Baxter International	46	Baxter International	PSFT	HCM, Other
47	BBS Electronics	47	BBS Electronics	JDE	FMS, SCM
49	Beacon Industrial Group	49	Beacon Industrial Group	JDE	FMS, SCM, HCM, Other
52	Big Lots	52	Big Lots	PSFT	HCM, Other
53	Blue Cross Blue Shield of KS	53	Blue Cross Blue Shield of KS	PSFT	HCM, Other
54	Blue Diamond Growers	54	Blue Diamond Growers	PSFT	HCM
55	BM Nagano	55	BM Nagano	JDE	FMS, Other
56	Bonne Bell	56	Bonne Bell	JDE	FMS, SCM, Other
57	Border Foods	57	Border Foods	JDE	FMS, SCM, Other
58	Borders Group	58	Borders Group	PSFT	HCM
60	Brenco	60	Brenco	JDE	FMS, SCM, HCM, Other
62	BT Fuze	62	BT Fuze	JDE	FMS, SCM, HCM, Other
63	By Referral Only	63	By Referral Only	SBL	CRM
64	CA	64	CA	PSFT	HCM, Other
66	Canning Vale	66	Canning Vale	JDE	FMS, SCM, Other
67	Capital Group	67	Capital Group	PSFT	HCM, Other
68	Captain D's	68	Captain D's	JDE	FMS, SCM, Other
71	Caterpillar Underground	71	Caterpillar Underground	JDE	FMS, SCM, Other
72	CC Industries	72	CC Industries	JDE	FMS, SCM, HCM, Other
72	CC Industries	72	CC Industries	PSFT	HCM, Other
73	Central Garden and Pet	73	Central Garden and Pet	JDE	FMS, SCM, Other
74	Channing Bete	74	Channing Bete	JDE	FMS, SCM, Other
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	FMS, SCM, HCM, Other
78	City of Atlanta	78	City of Atlanta	PSFT	HCM, Other
79	City of Flint	79	City of Flint	PSFT	HCM, Other
80	City of Huntsville	80	City of Huntsville	PSFT	HCM, Other
81	City of Medicine Hat	81	City of Medicine Hat	JDE	FMS, SCM, Other
84	Clear Channel Management	84	Clear Channel Management	PSFT	FMS, SCM, HCM, Other
85	CNH America	85	CNH America	JDE	FMS, SCM, Other
86	Commerce Bank	86	Commerce Bank	PSFT	FMS, SCM, Other
88	ConAgra Foods	88	ConAgra Foods	PSFT	HCM, Other
89	Contico	89	Contico	JDE	FMS, Other
91	Coors Brewing Company	91	Coors Brewing Company	PSFT	HCM, Other
93	Coty Mexico	93	Coty Mexico	JDE	FMS, SCM, Other
94	Cowlitz County	94	Cowlitz County	PSFT	FMS, HCM, Other
95	Crayola	95	Crayola	JDE	FMS, SCM
96	Crothall Services	96	Crothall Services	JDE	FMS, SCM, Other
97	CSBP Limited	97	CSBP Limited	SBL	CRM
98	CSK Auto	98	CSK Auto	PSFT	HCM, Other
100	Decorative Concepts	100	Decorative Concepts	JDE	FMS, SCM

	Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)		
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail
101	Delta Dental Plan of Michigan	101	Delta Dental Plan of Michigan	PSFT	FMS, SCM, HCM, Other
102	DHL Container Logistics	102	DHL Container Logistics	JDE	FMS, SCM, Other
103	Diamond Cluster	103	Diamond Cluster	PSFT	FMS, SCM, HCM
104	Diocesan Service	104	Diocesan Service	PSFT	FMS, HCM, Other
105	Direct Energy Marketing	105	Direct Energy Marketing	PSFT	HCM
106	Dominion Homes	106	Dominion Homes	JDE	FMS, SCM, Other
107	Drexel Heritage	107	Drexel Heritage	JDE	FMS, SCM, HCM, Other
108	Durr	108	Durr	JDE	FMS, SCM
109	E.Piphany	109	E.Piphany	PSFT	FMS, SCM, HCM, Other
110	Eagle Family Foods	110	Eagle Family Foods	PSFT	FMS, SCM, Other
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	FMS, SCM, HCM, Other
112	Ecolab	112	Ecolab	JDE	FMS, SCM, HCM, Other
113	Education Direct	113	Education Direct	JDE	FMS, SCM
115	Electrolux IT Solutions	115	Electrolux IT Solutions	JDE	FMS, HCM, SCM
116	Empire District Electric	116	Empire District Electric	PSFT	FMS, SCM, HCM, Other
117	Employees' Retirement System of GA	117	Employees' Retirement System of GA	PSFT	HCM, Other
120	Fabrica Nacional	120	Fabrica Nacional	JDE	FMS, SCM, Other
121	Fairchild Semiconductor	121	Fairchild Semiconductor	PSFT	FMS, SCM, HCM, CRM, Other
122	Federated Services	122	Federated Services	PSFT	HCM, Other
123	Fireman's Fund	123	Fireman's Fund	PSFT	FMS, SCM
127	Flint Group Incorporated	127	Flint Group Incorporated	JDE	FMS, SCM, Other
128	Florida Tile Industries	128	Florida Tile Industries	PSFT	HCM
130	Foreign Candy	130	Foreign Candy	JDE	FMS, SCM, Other
131	Forth Ports	131	Forth Ports	JDE	FMS, SCM
132	Foss Maritime	132	Foss Maritime	JDE	FMS, SCM, HCM
135	Fundamental Administrative Services	135	Fundamental Administrative Services	PSFT	FMS, SCM, HCM, Other
137	Genesis Healthcare	137	Genesis Healthcare	PSFT	HCM, Other
138	George Weston Bakeries	138	George Weston Bakeries	PSFT	FMS, Other
140	GKN Driveline North America	140	GKN Driveline North America	PSFT	FMS, HCM, Other
143	Greater Vancouver Regional District	143	Greater Vancouver Regional District	PSFT	FMS, SCM, HCM
144	Gregg Appliances	144	Gregg Appliances	PSFT	HCM, Other
145	Grupo Convermex	145	Grupo Convermex	JDE	FMS, SCM, Other
146	Gruppo GALBANI	146	Gruppo GALBANI	JDE	FMS, SCM
148	Harley-Davidson	148	Harley-Davidson	JDE	FMS, SCM, Other
149	Haworth	149	Haworth	PSFT	FMS, Other
150	Helzberg Diamond Shops	150	Helzberg Diamond Shops	JDE	FMS, HCM, Other
151	Henry Production	151	Henry Production	JDE	FMS, SCM, Other
152	Herbert Waldmann Lichttechnik	152	Herbert Waldmann Lichttechnik	JDE	FMS
154	High Industries	154	High Industries	PSFT	HCM, Other
155	Hitachi Global Storage Technologies	155	Hitachi Global Storage Technologies	PSFT	HCM, Other
157	Home Depot	157	Home Depot	PSFT	FMS, HCM

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail
158	Honeywell	158	Honeywell	PSFT	HCM, Other
160	Host Communications	160	Host Communications	JDE	FMS
161	Hubbard Construction	161	Hubbard Construction	JDE	FMS, HCM, Other
163	Hydro One Networks	163	Hydro One Networks	PSFT	FMS, HCM, SCM, Other
166	II Stanley	166	II Stanley	JDE	FMS, SCM, HCM, Other
168	Informatica	168	Informatica	PSFT	FMS, SCM, Other
169	Information Handling Service	169	Information Handling Service	PSFT	CRM
171	Interpublic Group	171	Interpublic Group	PSFT	HCM, Other
173	Intraware	173	Intraware	PSFT	FMS, SCM, Other
174	J.B. Hunt	174	J.B. Hunt	PSFT	FMS, SCM, HCM, Other
175	J.W. Harris	175	J.W. Harris	JDE	FMS, SCM, Other
176	JALPAK International	176	JALPAK International	JDE	FMS, Other
177	Japan Travel Bureau Asia	177	Japan Travel Bureau Asia	JDE	FMS, Other
178	Just Born	178	Just Born	JDE	FMS, HCM, Other
179	Kellstrom Industries	179	Kellstrom Industries	JDE	FMS, Other
180	Kent County Michigan	180	Kent County Michigan	PSFT	FMS, SCM, HCM
181	Kentucky Fried Chicken	181	Kentucky Fried Chicken	JDE	FMS, Other
183	KMC Telecom Holdings	183	KMC Telecom Holdings	PSFT	FMS, SCM, Other
184	Koontz-Wagner	184	Koontz-Wagner	JDE	FMS, SCM, HCM
185	Laird Plastics	185	Laird Plastics	JDE	FMS, SCM
186	Lakeside Manufacturing	186	Lakeside Manufacturing	JDE	FMS, SCM, HCM, Other
187	Lexmark	187	Lexmark	JDE	FMS, SCM, Other
189	Linc Facility Services	189	Linc Facility Services	PSFT	FMS, HCM, SCM, Other
190	Lincoln Property	190	Lincoln Property	JDE	FMS, Other
191	Lion ReSources	191	Lion ReSources	PSFT	HCM, Other
192	Littleton Public Schools	192	Littleton Public Schools	JDE	FMS, SCM, HCM, Other
194	Longaberger	194	Longaberger	PSFT	FMS, SCM, HCM, CRM, Other
195	LS Management	195	LS Management	PSFT	FMS, HCM, Other
196	Madix	196	Madix	SBL	CRM
197	Magee Clothing	197	Magee Clothing	JDE	FMS, Other
199	Manugistics	199	Manugistics	PSFT	CRM, Other
201	McLennan	201	McLennan	PSFT	FMS, SCM, HCM, Other
202	Merck	202	Merck	PSFT	HCM, Other
202	Merck	202	Merck	JDE	FMS, SCM, Other
203	Metex	203	Metex	JDE	FMS, SCM, Other
204	Metro Machine	204	Metro Machine	JDE	FMS, SCM, HCM, Other
205	Mieco	205	Mieco	PSFT	FMS, Other
206	MKS	206	MKS	JDE	FMS, SCM, Other
206	MKS	206	MKS	SBL	CRM
207	Municipality of Anchorage	207	Municipality of Anchorage	PSFT	FMS, HCM, Other
208	Murphy-Brown	208	Murphy-Brown	JDE	FMS, SCM, HCM, Other
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	FMS, SCM, HCM, Other
210	National Americas Investment	210	National Americas Investment	PSFT	FMS, Other
211	National Foods	211	National Foods	JDE	SCM, Other
211	National Foods	211	National Foods	PSFT	HCM

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail
212	National Manufacturing	212	National Manufacturing	JDE	FMS, SCM, HCM, Other
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	FMS, HCM, Other
216	Neaton Auto Products Mfg.	216	Neaton Auto Products Mfg.	JDE	FMS, SCM, Other
217	New Era Cap	217	New Era Cap	PSFT	FMS, SCM, Other
218	Newport	218	Newport	PSFT	HCM, Other
222	Nitta Casings	222	Nitta Casings	JDE	FMS, SCM, Other
223	Norstan Communications	223	Norstan Communications	PSFT	HCM, FMS, CRM, SCM, Other
224	Northern Group Training	224	Northern Group Training	JDE	FMS, SCM, HCM, Other
226	Oce-Technologies	226	Oce-Technologies	JDE	FMS, SCM
227	Oklahoma Publishing	227	Oklahoma Publishing	PSFT	HCM
228	Olin	228	Olin	PSFT	HCM, Other
229	On Assignment	229	On Assignment	JDE	FMS, HCM, Other
231	Organon Mexicana	231	Organon Mexicana	JDE	FMS, SCM, Other
232	Overwaitea Food Group	232	Overwaitea Food Group	PSFT	HCM, Other
233	Oxford Global	233	Oxford Global	PSFT	FMS, HCM, SCM, Other
234	Park Associates	234	Park Associates	PSFT	FMS, SCM, HCM, Other
235	Parkview Health	235	Parkview Health	PSFT	FMS, HCM, Other
236	PCI Limited	236	PCI Limited	JDE	FMS, SCM, Other
237	Pepsi Americas	237	Pepsi Americas	PSFT	FMS, SCM, HCM, CRM, Other
239	Petco	239	Petco	PSFT	FMS, SCM, HCM, Other
241	PetSmart	241	PetSmart	PSFT	HCM, Other
242	Pfizer	242	Pfizer	PSFT	FMS, SCM
243	Phelps Dodge	243	Phelps Dodge	PSFT	HCM, Other
244	Philadelphia Corporation of Aging	244	Philadelphia Corporation of Aging	PSFT	FMS, SCM, HCM, Other
245	Pillsbury Winthrop	245	Pillsbury Winthrop	PSFT	HCM, Other
246	Pomeroy IT Solutions	246	Pomeroy IT Solutions	SBL	CRM
248	Praxair	248	Praxair	PSFT	HCM
249	Pretty Products	249	Pretty Products	JDE	FMS, SCM, Other
251	Prime Group Realty	251	Prime Group Realty	JDE	FMS, Other
252	Progress Software	252	Progress Software	PSFT	FMS, SCM, CRM, Other
253	Proliance	253	Proliance	JDE	FMS, SCM, Other
254	Proquest	254	Proquest	PSFT	HCM, Other
255	Providence Health	255	Providence Health	PSFT	HCM
256	PSCU Financial Services	256	PSCU Financial Services	SBL	CRM
257	PTL Information Technology	257	PTL Information Technology	JDE	FMS, SCM, HCM, Other
258	Quad Graphics	258	Quad Graphics	PSFT	HCM, Other
259	Remy International	259	Remy International	PSFT	HCM, Other
260	Rentway	260	Rentway	PSFT	FMS, SCM, HCM, Other
261	Richardson Electronics	261	Richardson Electronics	PSFT	FMS, SCM, HCM, Other
262	Richmond Power & Light	262	Richmond Power & Light	PSFT	FMS, SCM, HCM
264	Rockwell	264	Rockwell	SBL	CRM
265	Rockwood Pigments	265	Rockwood Pigments	JDE	FMS
266	Rolls-Royce of NA	266	Rolls-Royce of NA	PSFT	HCM, Other
267	Ronis	267	Ronis	JDE	FMS, SCM
268	Ross	268	Ross	PSFT	FMS, SCM, HCM, Other

	Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
	Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail
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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)			
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail
334	Veka	334	Veka	JDE	FMS, SCM, Other
335	Veolia Water Indianapolis	335	Veolia Water Indianapolis	PSFT	FMS, SCM, Other
337	VSM Group	337	VSM Group	JDE	FMS, SCM
339	W.C. Wood	339	W.C. Wood	JDE	FMS, SCM, Other
340	Wabash National	340	Wabash National	JDE	FMS, SCM
343	Watson Laboratories	343	Watson Laboratories	SBL	CRM
344	Weil-McLain	344	Weil-McLain	JDE	FMS, SCM
345	Wellbridge	345	Wellbridge	PSFT	FMS, SCM, Other
346	Wendy's	346	Wendy's	PSFT	FMS, SCM, HCM, Other
349	Westcon	349	Westcon	JDE	FMS, SCM, Other
350	Wheeler's	350	Wheeler's	JDE	FMS, SCM, HCM, CRM, Other
352	World Kitchen (Asia Pacific)	352	World Kitchen (Asia Pacific)	JDE	FMS, SCM
353	WorldTex	353	WorldTex	JDE	FMS, SCM, HCM, Other
354	WWL Vehicle Services	354	WWL Vehicle Services	JDE	FMS, SCM, Other
355	Yazaki Europe	355	Yazaki Europe	JDE	FMS, SCM
356	Yazaki North America	356	Yazaki North America	JDE	FMS, SCM, HCM, Other
358	ZMC Technologies	358	ZMC Technologies	JDE	FMS, SCM

531. The customers listed in the columns titled “Clarke Customer Name” and “Meyer Customer Name” in the chart below purchased support from TomorrowNow, Inc. for the products listed in the columns titled “Product Line” and “Product Line Detail.” Prior to purchasing support from TomorrowNow, Inc., these customers paid Oracle the annual support fee listed for support of the listed products.

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
1	Abbott Laboratories	1	Abbott Laboratories	JDE	FMS, SCM, Other	198,833
2	Abitibi	2	Abitibi	JDE	FMS, SCM, HCM, Other	1,202,399
5	Ace Parking	5	Ace Parking	PSFT	FMS, Other	44,121
6	ACH Food	6	ACH Food	JDE	FMS, Other	47,225
7	ACN Europe	7	ACN Europe	JDE	FMS	23,460
9	Acushnet	9	Acushnet	PSFT	FMS, SCM,	334,500

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
					Other	
11	AFLAC	11	AFLAC	PSFT	HCM, Other	206,718
13	Ajinomoto	13	Ajinomoto	JDE	FMS, SCM, Other	141,583
14	Akorn	14	Akorn	JDE	FMS, SCM, Other	19,434
16	Alberto-Culver	16	Alberto-Culver	SBL	CRM	87,447
16	Alberto-Culver	16	Alberto-Culver	PSFT	SCM, Other	66,053
18	Alcon Laboratories	18	Alcon Laboratories	PSFT	HCM, Other	353,371
19	Allianz Australia	19	Allianz Australia	PSFT	FMS, SCM, Other	80,957
20	Allianz Life	20	Allianz Life	PSFT	FMS, SCM, HCM, Other	480,131
23	American Commercial Lines	23	American Commercial Lines	PSFT	FMS, SCM, Other	230,660
25	American Media	25	American Media	PSFT	FMS, SCM, HCM, Other	135,137
26	American Red Cross	26	American Red Cross	PSFT	FMS, SCM, HCM, Other	145,633
27	Amgen	27	Amgen	JDE	FMS, SCM, Other	597,696
28	AO Smith	28	AO Smith	PSFT	FMS, HCM, Other	468,341
30	Apria Healthcare	30	Apria Healthcare	JDE	FMS, SCM, Other	383,362
31	ARC	31	ARC	PSFT	HCM	111,578
32	Ariba	32	Ariba	PSFT	FMS, SCM, HCM, Other	160,837
33	Arvato Services	33	Arvato Services	PSFT	FMS, SCM, Other	38,548
36	ASTAR Air Cargo	36	ASTAR Air Cargo	PSFT	FMS, SCM, HCM, Other	95,300

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
37	Atlantic Container Store	37	Atlantic Container Store	JDE	FMS, Other	3,470
38	Atlantic Marine	38	Atlantic Marine	JDE	FMS, SCM, HCM, Other	72,352
39	Autobuses de la Piedad	39	Autobuses de la Piedad	JDE	FMS, SCM, Other	46,168
41	Baker Botts	41	Baker Botts	PSFT	HCM, Other	83,700
42	Baptist Health System	42	Baptist Health System	PSFT	FMS, SCM, Other	231,432
43	Barrie Hydro	43	Barrie Hydro	JDE	FMS, SCM, HCM	20,335
44	BASF AG	44	BASF AG	PSFT	HCM, Other	144,229
44	BASF AG	44	BASF AG	JDE	FMS, SCM, Other	1,174,479
45	Basler Electric	45	Basler Electric	JDE	FMS, SCM, HCM, Other	210,523
46	Baxter International	46	Baxter International	PSFT	HCM, Other	598,502
47	BBS Electronics	47	BBS Electronics	JDE	FMS, SCM	11,776
49	Beacon Industrial Group	49	Beacon Industrial Group	JDE	FMS, SCM, HCM, Other	20,419
52	Big Lots	52	Big Lots	PSFT	HCM, Other	491,490
53	Blue Cross Blue Shield of KS	53	Blue Cross Blue Shield of KS	PSFT	HCM, Other	65,845
54	Blue Diamond Growers	54	Blue Diamond Growers	PSFT	HCM	43,248
55	BM Nagano	55	BM Nagano	JDE	FMS, Other	4,256
56	Bonne Bell	56	Bonne Bell	JDE	FMS, SCM, Other	89,460
57	Border Foods	57	Border Foods	JDE	FMS, SCM, Other	35,909
58	Borders Group	58	Borders Group	PSFT	HCM	494,645
60	Brenco	60	Brenco	JDE	FMS, SCM, HCM, Other	87,025

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
62	BT Fuze	62	BT Fuze	JDE	FMS, SCM, HCM, Other	14,983
63	By Referral Only	63	By Referral Only	SBL	CRM	34,125
64	CA	64	CA	PSFT	HCM, Other	517,511
66	Canning Vale	66	Canning Vale	JDE	FMS, SCM, Other	57,895
67	Capital Group	67	Capital Group	PSFT	HCM, Other	149,278
68	Captain D's	68	Captain D's	JDE	FMS, SCM, Other	53,933
71	Caterpillar Underground	71	Caterpillar Underground	JDE	FMS, SCM, Other	57,558
72	CC Industries	72	CC Industries	JDE	FMS, SCM, HCM, Other	12,267
72	CC Industries	72	CC Industries	PSFT	HCM, Other	265,314
73	Central Garden and Pet	73	Central Garden and Pet	JDE	FMS, SCM, Other	68,405
74	Channing Bete	74	Channing Bete	JDE	FMS, SCM, Other	115,750
75	Children's Health System of AL	75	Children's Health System of AL	PSFT	FMS, SCM, HCM, Other	254,128
78	City of Atlanta	78	City of Atlanta	PSFT	HCM, Other	253,350
79	City of Flint	79	City of Flint	PSFT	HCM, Other	109,852
80	City of Huntsville	80	City of Huntsville	PSFT	HCM, Other	111,146
81	City of Medicine Hat	81	City of Medicine Hat	JDE	FMS, SCM, Other	21,682
84	Clear Channel Management	84	Clear Channel Management	PSFT	FMS, SCM, HCM, Other	721,607
85	CNH America	85	CNH America	JDE	FMS, SCM, Other	390,533
86	Commerce Bank	86	Commerce Bank	PSFT	FMS, SCM, Other	81,543
88	ConAgra Foods	88	ConAgra Foods	PSFT	HCM,	

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
					Other	912,756
89	Contico	89	Contico	JDE	FMS, Other	49,407
91	Coors Brewing Company	91	Coors Brewing Company	PSFT	HCM, Other	76,449
93	Coty Mexico	93	Coty Mexico	JDE	FMS, SCM, Other	34,192
95	Crayola	95	Crayola	JDE	FMS, SCM	25,000
96	Crothall Services	96	Crothall Services	JDE	FMS, SCM, Other	33,712
98	CSK Auto	98	CSK Auto	PSFT	HCM, Other	157,265
100	Decorative Concepts	100	Decorative Concepts	JDE	FMS, SCM	201,250
101	Delta Dental Plan of Michigan	101	Delta Dental Plan of Michigan	PSFT	FMS, SCM, HCM, Other	269,953
102	DHL Container Logistics	102	DHL Container Logistics	JDE	FMS, SCM, Other	110,397
103	Diamond Cluster	103	Diamond Cluster	PSFT	FMS, SCM, HCM	191,368
104	Diocesan Service	104	Diocesan Service	PSFT	FMS, HCM, Other	119,979
105	Direct Energy Marketing	105	Direct Energy Marketing	PSFT	HCM	100,724
106	Dominion Homes	106	Dominion Homes	JDE	FMS, SCM, Other	45,992
107	Drexel Heritage	107	Drexel Heritage	JDE	FMS, SCM, HCM, Other	101,997
108	Durr	108	Durr	JDE	FMS, SCM	4,868
109	E.Piphany	109	E.Piphany	PSFT	FMS, SCM, HCM, Other	194,189
110	Eagle Family Foods	110	Eagle Family Foods	PSFT	FMS, SCM, Other	149,796
111	East Bay Municipal Utility District	111	East Bay Municipal Utility District	PSFT	FMS, SCM, HCM, Other	383,257
112	Ecolab	112	Ecolab	JDE	FMS, SCM, HCM,	431,057

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
					Other	
113	Education Direct	113	Education Direct	JDE	FMS, SCM	247,273
115	Electrolux IT Solutions	115	Electrolux IT Solutions	JDE	FMS, HCM, SCM	491,279
116	Empire District Electric	116	Empire District Electric	PSFT	FMS, SCM, HCM, Other	146,098
117	Employees' Retirement System of GA	117	Employees' Retirement System of GA	PSFT	HCM, Other	275,219
120	Fabrica Nacional	120	Fabrica Nacional	JDE	FMS, SCM, Other	122,811
121	Fairchild Semiconductor	121	Fairchild Semiconductor	PSFT	FMS, SCM, HCM, CRM, Other	798,242
122	Federated Services	122	Federated Services	PSFT	HCM, Other	82,302
127	Flint Group Incorporated	127	Flint Group Incorporated	JDE	FMS, SCM, Other	67,105
128	Florida Tile Industries	128	Florida Tile Industries	PSFT	HCM	57,084
130	Foreign Candy	130	Foreign Candy	JDE	FMS, SCM, Other	9,452
131	Forth Ports	131	Forth Ports	JDE	FMS, SCM	45,904
132	Foss Maritime	132	Foss Maritime	JDE	FMS, SCM, HCM	101,293
135	Fundamental Administrative Services	135	Fundamental Administrative Services	PSFT	FMS, SCM, HCM, Other	808,407
137	Genesis Healthcare	137	Genesis Healthcare	PSFT	HCM, Other	173,588
138	George Weston Bakeries	138	George Weston Bakeries	PSFT	FMS, Other	424,613
140	GKN Driveline North America	140	GKN Driveline North America	PSFT	FMS, HCM, Other	204,111
143	Greater Vancouver Regional District	143	Greater Vancouver Regional District	PSFT	FMS, SCM, HCM	154,718
144	Gregg Appliances	144	Gregg Appliances	PSFT	HCM, Other	80,252
145	Grupo Convermex	145	Grupo Convermex	JDE	FMS, SCM, Other	14,629

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
146	Gruppo GALBANI	146	Gruppo GALBANI	JDE	FMS, SCM	106,386
148	Harley-Davidson	148	Harley-Davidson	JDE	FMS, SCM, Other	86,436
149	Haworth	149	Haworth	PSFT	FMS, Other	54,960
150	Helzberg Diamond Shops	150	Helzberg Diamond Shops	JDE	FMS, HCM, Other	60,482
151	Henry Production	151	Henry Production	JDE	FMS, SCM, Other	31,808
152	Herbert Waldmann Lichttechnik	152	Herbert Waldmann Lichttechnik	JDE	FMS	-
154	High Industries	154	High Industries	PSFT	HCM, Other	98,951
155	Hitachi Global Storage Technologies	155	Hitachi Global Storage Technologies	PSFT	HCM, Other	680,288
157	Home Depot	157	Home Depot	PSFT	FMS, HCM	1,250,775
158	Honeywell	158	Honeywell	PSFT	HCM, Other	813,971
160	Host Communications	160	Host Communications	JDE	FMS	35,557
161	Hubbard Construction	161	Hubbard Construction	JDE	FMS, HCM, Other	-
163	Hydro One Networks	163	Hydro One Networks	PSFT	FMS, HCM, SCM, Other	638,464
166	II Stanley	166	II Stanley	JDE	FMS, SCM, HCM, Other	68,139
168	Informatica	168	Informatica	PSFT	FMS, SCM, Other	29,781
169	Information Handling Service	169	Information Handling Service	PSFT	CRM	21,160
171	Interpublic Group	171	Interpublic Group	PSFT	HCM, Other	440,855
173	Intraware	173	Intraware	PSFT	FMS, SCM, Other	45,000
174	J.B. Hunt	174	J.B. Hunt	PSFT	FMS, SCM, HCM, Other	671,713
175	J.W. Harris	175	J.W. Harris	JDE	FMS, SCM, Other	50,176
176	JALPAK International	176	JALPAK International	JDE	FMS,	

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
					Other	21,541
177	Japan Travel Bureau Asia	177	Japan Travel Bureau Asia	JDE	FMS, Other	2,972
178	Just Born	178	Just Born	JDE	FMS, HCM, Other	25,575
179	Kellstrom Industries	179	Kellstrom Industries	JDE	FMS, Other	5,335
180	Kent County Michigan	180	Kent County Michigan	PSFT	FMS, SCM, HCM	165,753
181	Kentucky Fried Chicken	181	Kentucky Fried Chicken	JDE	FMS, Other	2,170
183	KMC Telecom Holdings	183	KMC Telecom Holdings	PSFT	FMS, SCM, Other	99,209
184	Koontz-Wagner	184	Koontz-Wagner	JDE	FMS, SCM, HCM	38,017
185	Laird Plastics	185	Laird Plastics	JDE	FMS, SCM	243,527
186	Lakeside Manufacturing	186	Lakeside Manufacturing	JDE	FMS, SCM, HCM, Other	16,599
187	Lexmark	187	Lexmark	JDE	FMS, SCM, Other	628,368
189	Linc Facility Services	189	Linc Facility Services	PSFT	FMS, HCM, SCM, Other	1,945,369
190	Lincoln Property	190	Lincoln Property	JDE	FMS, Other	63,275
191	Lion ReSources	191	Lion ReSources	PSFT	HCM, Other	405,293
192	Littleton Public Schools	192	Littleton Public Schools	JDE	FMS, SCM, HCM, Other	33,151
194	Longaberger	194	Longaberger	PSFT	FMS, SCM, HCM, CRM, Other	521,903
195	LS Management	195	LS Management	PSFT	FMS, HCM, Other	316,811
196	Madix	196	Madix	SBL	CRM	49,577
197	Magee Clothing	197	Magee Clothing	JDE	FMS, Other	20,969
199	Manugistics	199	Manugistics	PSFT	CRM, Other	209,603

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Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
201	McLennan	201	McLennan	PSFT	FMS, SCM, HCM, Other	105,106
202	Merck	202	Merck	PSFT	HCM, Other	392,372
202	Merck	202	Merck	JDE	FMS, SCM, Other	1,353,912
203	Metex	203	Metex	JDE	FMS, SCM, Other	39,349
204	Metro Machine	204	Metro Machine	JDE	FMS, SCM, HCM, Other	93,526
205	Mieco	205	Mieco	PSFT	FMS, Other	137,720
206	MKS	206	MKS	JDE	FMS, SCM, Other	3,184
206	MKS	206	MKS	SBL	CRM	44,163
207	Municipality of Anchorage	207	Municipality of Anchorage	PSFT	FMS, HCM, Other	344,474
208	Murphy-Brown	208	Murphy-Brown	JDE	FMS, SCM, HCM, Other	152,598
209	Mutual of Omaha	209	Mutual of Omaha	PSFT	FMS, SCM, HCM, Other	616,799
210	National Americas Investment	210	National Americas Investment	PSFT	FMS, Other	101,575
211	National Foods	211	National Foods	JDE	SCM, Other	91,455
211	National Foods	211	National Foods	PSFT	HCM	62,816
212	National Manufacturing	212	National Manufacturing	JDE	FMS, SCM, HCM, Other	149,452
213	National Surgical Hospitals	213	National Surgical Hospitals	PSFT	FMS, HCM, Other	42,753
216	Neaton Auto Products Mfg.	216	Neaton Auto Products Mfg.	JDE	FMS, SCM, Other	57,781
217	New Era Cap	217	New Era Cap	PSFT	FMS, SCM, Other	266,620
218	Newport	218	Newport	PSFT	HCM, Other	20,325

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
222	Nitta Casings	222	Nitta Casings	JDE	FMS, SCM, Other	22,005
223	Norstan Communications	223	Norstan Communications	PSFT	HCM, FMS, CRM, SCM, Other	429,319
224	Northern Group Training	224	Northern Group Training	JDE	FMS, SCM, HCM, Other	4,142
226	Oce-Technologies	226	Oce-Technologies	JDE	FMS, SCM	-
227	Oklahoma Publishing	227	Oklahoma Publishing	PSFT	HCM	44,035
228	Olin	228	Olin	PSFT	HCM, Other	226,836
229	On Assignment	229	On Assignment	JDE	FMS, HCM, Other	6,607
231	Organon Mexicana	231	Organon Mexicana	JDE	FMS, SCM, Other	28,093
232	Overwaitea Food Group	232	Overwaitea Food Group	PSFT	HCM, Other	322,992
233	Oxford Global	233	Oxford Global	PSFT	FMS, HCM, SCM, Other	226,547
234	Park Associates	234	Park Associates	PSFT	FMS, SCM, HCM, Other	175,881
235	Parkview Health	235	Parkview Health	PSFT	FMS, HCM, Other	340,500
236	PCI Limited	236	PCI Limited	JDE	FMS, SCM, Other	11,867
237	Pepsi Americas	237	Pepsi Americas	PSFT	FMS, SCM, HCM, CRM, Other	1,005,801
239	Petco	239	Petco	PSFT	FMS, SCM, HCM, Other	603,132
241	PetSmart	241	PetSmart	PSFT	HCM, Other	388,000
242	Pfizer	242	Pfizer	PSFT	FMS, SCM	678,699
243	Phelps Dodge	243	Phelps Dodge	PSFT	HCM, Other	493,339

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
244	Philadelphia Corporation of Aging	244	Philadelphia Corporation of Aging	PSFT	FMS, SCM, HCM, Other	107,984
245	Pillsbury Winthrop	245	Pillsbury Winthrop	PSFT	HCM, Other	161,661
246	Pomeroy IT Solutions	246	Pomeroy IT Solutions	SBL	CRM	380,875
249	Pretty Products	249	Pretty Products	JDE	FMS, SCM, Other	86,400
251	Prime Group Realty	251	Prime Group Realty	JDE	FMS, Other	19,442
252	Progress Software	252	Progress Software	PSFT	FMS, SCM, CRM, Other	126,684
253	Proliance	253	Proliance	JDE	FMS, SCM, Other	153,685
254	ProQuest	254	ProQuest	PSFT	HCM, Other	118,419
255	Providence Health	255	Providence Health	PSFT	HCM	75,500
256	PSCU Financial Services	256	PSCU Financial Services	SBL	CRM	45,407
257	PTL Information Technology	257	PTL Information Technology	JDE	FMS, SCM, HCM, Other	463,173
259	Remy International	259	Remy International	PSFT	HCM, Other	232,887
260	Rentway	260	Rentway	PSFT	FMS, SCM, HCM, Other	276,246
261	Richardson Electronics	261	Richardson Electronics	PSFT	FMS, SCM, HCM, Other	756,092
262	Richmond Power & Light	262	Richmond Power & Light	PSFT	FMS, SCM, HCM	69,370
264	Rockwell	264	Rockwell	SBL	CRM	348,380
265	Rockwood Pigments	265	Rockwood Pigments	JDE	FMS	5,143
266	Rolls-Royce of NA	266	Rolls-Royce of NA	PSFT	HCM, Other	132,765
267	Ronis	267	Ronis	JDE	FMS, SCM	-
268	Ross	268	Ross	PSFT	FMS, SCM, HCM, Other	574,974

	Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clark e #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount	
269	Rotkaeppchen Sektkellerei	269	Rotkaeppchen Sektkellerei	JDE	FMS, SCM	67,214	
270	Royal Holiday	270	Royal Holiday	JDE	FMS, SCM, Other	67,187	
271	RTKL	271	RTKL	PSFT	HCM, Other	53,476	
273	Saint Barnabas Health	273	Saint Barnabas Health	PSFT	HCM, Other	194,767	
274	Sandia Labs FCU	274	Sandia Labs FCU	JDE	FMS, Other	17,085	
278	Schaffner Holding	278	Schaffner Holding	JDE	FMS, SCM	-	
279	Schott North America	279	Schott North America	JDE	FMS, SCM, Other	23,822	
281	Seattle Public Schools	281	Seattle Public Schools	PSFT	HCM, Other	161,289	
282	Seven Seas	282	Seven Seas	JDE	FMS, SCM	-	
283	Shands Healthcare	283	Shands Healthcare	PSFT	HCM, SCM, FMS, Other	216,845	
285	Simon Property	285	Simon Property	PSFT	HCM, Other	235,432	
286	Sirva	286	Sirva	PSFT	FMS, SCM, Other	89,323	
288	Smart Centers	288	Smart Centers	SBL	CRM	4,602	
290	Sony Pictures	290	Sony Pictures	PSFT	HCM	10,299	
291	Southern California Edison	291	Southern California Edison	PSFT	HCM, Other	404,478	
292	Spokane County	292	Spokane County	PSFT	FMS, SCM, HCM	260,211	
293	SPX Cooling Technology	293	SPX Cooling Technology	JDE	FMS, SCM	75,000	
294	SPX Flow Technology	294	SPX Flow Technology	JDE	FMS, SCM	75,000	
295	St. Lukes Cornwall Hospital	295	St. Lukes Cornwall Hospital	PSFT	HCM, Other	50,499	
296	Standard Register	296	Standard Register	SBL	CRM	579,919	
296	Standard Register	296	Standard Register	PSFT	FMS, SCM, HCM, Other	510,758	
297	Stanley Electric	297	Stanley Electric	JDE	FMS, SCM, Other	32,211	
298	StarHub	298	StarHub	PSFT	FMS,		

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
					SCM, Other	115,407
299	Stora Enso North America	299	Stora Enso North America	JDE	FMS, SCM, HCM, Other	442,771
300	Suburban Propane	300	Suburban Propane	PSFT	HCM	22,100
301	Susquehanna Pfaltzgraff	301	Susquehanna Pfaltzgraff	PSFT	HCM, Other	97,916
302	Sybase	302	Sybase	PSFT	FMS, SCM	225,000
303	Syngenta Crop Protection	303	Syngenta Crop Protection	PSFT	HCM, Other	309,702
304	Telapex	304	Telapex	PSFT	HCM, Other	66,777
305	Texas Association of School Boards	305	Texas Association of School Boards	JDE	FMS, SCM, Other	26,390
307	Texas Medical Association	307	Texas Medical Association	JDE	FMS, HCM, Other	27,801
308	Textile Management	308	Textile Management	JDE	FMS, SCM	28,126
310	Toshiba America Info Systems	310	Toshiba America Info Systems	PSFT	HCM, Other	180,896
311	Transfield Services New Zealand	311	Transfield Services New Zealand	JDE	FMS, SCM, HCM, Other	93,981
313	Trends International	313	Trends International	PSFT	FMS, SCM, Other	36,593
314	Trenwick America	314	Trenwick America	PSFT	FMS, Other	55,873
316	TriQuint Semiconductor	316	TriQuint Semiconductor	PSFT	HCM	62,396
318	United Dominion Realty	318	United Dominion Realty	PSFT	FMS	160,399
320	Universitas 21 Global	320	Universitas 21 Global	PSFT	FMS, HCM, Campus Solutions, Other	53,138
324	UPM-Kymmene UK (Shotton)	324	UPM-Kymmene UK (Shotton)	JDE	FMS	14,611
332	Vanguard Managed Solutions	332	Vanguard Managed Solutions	JDE	FMS, SCM, Other	62,244
333	Vector Limited	333	Vector Limited	JDE	FMS, SCM, HCM, Other	114,667
334	Veka	334	Veka	JDE	FMS, SCM,	110,153

Clarke (Appendix W-6)		Meyer (SCH 34.SU, 34.1.SU, 34.3.DU, 34.4.DU)				
Clarke #	Clarke Customer Name	Meyer Ref. ID	Meyer Customer Name	Product Line	Product Line Detail	Oracle Last Annual Paid Amount
					Other	
335	Veolia Water Indianapolis	335	Veolia Water Indianapolis	PSFT	FMS, SCM, Other	69,908
337	VSM Group	337	VSM Group	JDE	FMS, SCM	-
339	W.C. Wood	339	W.C. Wood	JDE	FMS, SCM, Other	93,195
340	Wabash National	340	Wabash National	JDE	FMS, SCM	298,971
343	Watson Laboratories	343	Watson Laboratories	SBL	CRM	34,943
344	Weil-McLain	344	Weil-McLain	JDE	FMS, SCM	40,000
345	Wellbridge	345	Wellbridge	PSFT	FMS, SCM, Other	35,570
346	Wendy's	346	Wendy's	PSFT	FMS, SCM, HCM, Other	730,512
349	Westcon	349	Westcon	JDE	FMS, SCM, Other	222,460
350	Wheeler's	350	Wheeler's	JDE	FMS, SCM, HCM, CRM, Other	85,206
352	World Kitchen (Asia Pacific)	352	World Kitchen (Asia Pacific)	JDE	FMS, SCM	15,884
353	WorldTex	353	WorldTex	JDE	FMS, SCM, HCM, Other	102,783
354	WWL Vehicle Services	354	WWL Vehicle Services	JDE	FMS, SCM, Other	65,880
356	Yazaki North America	356	Yazaki North America	JDE	FMS, SCM, HCM, Other	537,528
358	ZMC Technologies	358	ZMC Technologies	JDE	FMS, SCM	4,562

532. SAP earned revenues from the customers listed in the chart below in the amounts listed in the columns titled "Total Revenue (2005-2008)," and "Total Revenue (On or After TN

Start Date).”<sup>2</sup>

		Clarke Appendix N-3; Meyer Schedule 42.SU, 42.2.DU	Clarke Appendix N-4; Meyer Schedule 42.2.DU	
	SAP Customer	Total Revenue (2005 - 2008)	Total Revenue (On or After TN Start Date)	
			"On-going Revenue" Adjustment	
1	REDACTED	300,878	300,878	-
2	REDACTED	4,579,658	4,478,264	168,990
3	REDACTED	11,232,907	7,614,291	3,814,872
4	REDACTED	1,634,191	669,173	38,633
5	REDACTED	6,635,423	6,635,423	-
6	REDACTED	54,378	54,378	-
7	REDACTED	10,079	10,079	-
8	REDACTED	57,054,255	25,756,818	17,515,131
9	REDACTED	3,400,276	2,446,724	934,812
10	REDACTED	31,841,495	24,090,621	3,688,404
11	REDACTED	9,211,362	9,144,344	5,843
12	REDACTED	1,564,007	1,546,411	-
13	REDACTED	111,750,646	88,012,519	19,947,744
14	REDACTED	46,454	46,454	-
15	REDACTED	26,967,075	19,498,007	12,597,368
16	REDACTED	10,183,346	10,183,346	-
17	REDACTED	2,057,927	1,590,751	-
18	REDACTED	31,044,863	29,034,614	7,459,147
19	REDACTED	3,707,490	2,298,738	-
20	REDACTED	3,375,957	2,354,864	-
21	REDACTED	106,943	106,943	-
22	REDACTED	1,928,099	467,974	63,905
23	REDACTED	16,741,530	5,711,675	4,351,059
24	REDACTED	72,137,782	49,937,064	19,329,231
25	REDACTED	2,875	2,875	-
26	REDACTED	25,339,780	25,339,780	-
27	REDACTED	11,632,070	10,960,730	2,204,460
28	REDACTED	2,274,179	1,323,814	1,274,109
	REDACTED	8,780,985	8,777,885	-
	REDACTED	14,901,030	1,866,638	1,683,918
	REDACTED	16,308,692	16,308,692	-
	REDACTED	30,341,302	30,312,727	-
	REDACTED	128,057	58,963	-

<sup>2</sup> Plaintiff assert these foundational facts in anticipation of Defendants' potential defenses. Oracle does not concede that these facts are necessary to satisfy its burden of proof.

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		Clarke Appendix N-3; Meyer Schedule 42.SU, 42.2.DU		Clarke Appendix N-4; Meyer Schedule 42.2.DU
SAP Customer		Total Revenue (2005 - 2008)	Total Revenue (On or After TN Start Date)	"On-going Revenue" Adjustment
REDACTED		11,875	11,875	-
REDACTED		5,677,953	4,583,433	264,754
REDACTED		21,138,344	9,984,103	3,205,219
REDACTED		24,995,743	24,995,743	-
REDACTED		3,116,956	1,501,036	1,044,592
REDACTED		1,371,902	636,702	-
REDACTED		16,151,331	11,205,634	863,550
REDACTED		16,239,966	16,239,966	-
REDACTED		2,008,555	2,008,555	-
REDACTED		443,564	415,672	-
REDACTED		1,972,961	1,451,973	-
REDACTED		67,975,353	37,858,646	14,671,260
REDACTED		21,149,269	9,571,962	1,148,597
REDACTED		1,679,263	1,679,263	-
REDACTED		1,655,361	549,005	177,458
REDACTED		9,134,342	3,430,203	3,023,787
REDACTED		16,955,477	16,955,477	-
REDACTED		70,913,388	40,908,560	8,270,039
REDACTED		33,252	31,602	-
REDACTED		15,536,582	15,536,582	-
REDACTED		1,179,234	1,179,234	-
REDACTED		8,428,037	5,370,111	1,086,268
REDACTED		3,741,400	1,765,022	698,908
REDACTED		1,410,106	1,410,106	-
REDACTED		200,632	200,632	-
REDACTED		15,653,385	10,095,887	2,594,058
REDACTED		5,600,212	4,104,520	2,103,348
REDACTED		762,985	762,985	-
REDACTED		454,139	454,139	-
REDACTED		19,439,081	14,496,340	807,212
REDACTED		42,715	41,065	-
REDACTED		1,485,368	1,485,368	-
REDACTED		710,243	710,243	-
REDACTED		155,544	102,991	59,329
REDACTED		1,177,361	1,177,361	-
REDACTED		4,572,508	4,572,508	-
REDACTED		57,695,677	32,687,789	8,932,828
REDACTED		872,473	355,794	253,739

		Clarke Appendix N-3; Meyer Schedule 42.SU, 42.2.DU	Clarke Appendix N-4; Meyer Schedule 42.2.DU
	SAP Customer	Total Revenue (2005 - 2008)	Total Revenue (On or After TN Start Date) "On-going Revenue" Adjustment
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4	REDACTED	3,334,402	2,924,043
5	REDACTED	44,291,030	19,803,009
6	REDACTED	471,038	138,102
7	REDACTED	46,258	46,258
8	REDACTED	1,887,586	1,819,178
9	REDACTED	2,179,313	1,981,837
10	REDACTED	3,685,077	2,432,749
11	REDACTED	64,151,005	28,714,453
12	REDACTED	2,875	2,875
13	REDACTED	8,053,960	5,242,813
14	REDACTED	845,807	845,807
15	REDACTED	3,115,529	2,864,533
16	REDACTED	29,544,064	8,505,562
17	REDACTED	551,366	61,466
18	REDACTED	4,020,422	2,102,781
19	REDACTED	3,274,881	3,158,076
20	REDACTED	126,609,549	58,024,113
21	REDACTED	20,690,058	14,226,779
22	REDACTED	3,492,165	2,339,870
23	REDACTED	49,930,704	27,266,160
24	REDACTED	2,492,839	2,195,893
25	REDACTED	4,544,146	3,024,430
26	REDACTED	49,957	49,957
27	REDACTED	8,902,175	5,356,409
28	REDACTED	7,072,542	7,044,414
	REDACTED	11,271,208	11,271,208
	REDACTED	30,995	30,995
	REDACTED	24,734,870	20,640,213
			4,375,743

533. TomorrowNow, Inc. earned the revenues from the customers listed in the below in the amounts listed in the columns titled “TN Revenues Less Settlement Fee” and “Total TN Revenues Excl. Settlement Fee.”<sup>3</sup>

<sup>3</sup> Plaintiff assert these foundational facts in anticipation of Defendants' potential defenses. Oracle does not concede that these facts are necessary to satisfy its burden of proof.

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
1	Abbott Laboratories	JDE	110,349		110,349
2	Abitibi	JDE	502,356	114,600	616,956
3	AC Transit	PSFT	151,030		151,030
4	Academy Sports	PSFT	165,354		165,354
5	Ace Parking	PSFT	73,673	31,420	105,093
6	ACH Food	JDE	26,875	21,500	48,375
7	ACN Europe	JDE	25,651		25,651
8	ACO Produits	JDE	5,214	12,830	18,044
9	Acushnet	PSFT	171,962		171,962
10	Advance Auto Parts	PSFT	603,827		603,827
11	AFLAC	PSFT	92,490		92,490
12	AgFirst Farm Credit	PSFT	86,974	38,480	125,454
13	Ajinomoto	JDE	(93,631)	93,631	-
14	Akorn	JDE	65,933		65,933
15	Al Nisr Publishing	JDE	2,199	27,310	29,508
16	Alberto-Culver	PSFT	25,000		25,000
16	Alberto-Culver	SBL	54,250		54,250
17	Alcatel	SBL	126,698		126,698
17	Alcatel	Various	(259,628)	259,628	-
17	Alcatel	PSFT	200,088		200,088
17	Alcatel	Various	(165,991)	165,991	-
18	Alcon Laboratories	PSFT	88,200		88,200
19	Allianz Australia	PSFT	-		-
20	Allianz Life	PSFT	(412,500)	412,500	-
21	Allied Bakeries	JDE	108,116		108,116
22	Alterra Healthcare	PSFT	90,000		90,000
23	American Commercial Lines	PSFT	254,279		254,279
24	American Council on Education	PSFT	105,921	20,000	125,921
25	American Media	PSFT	216,180		216,180
26	American Red Cross	PSFT	(5,000)	65,000	60,000

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
27	Amgen	JDE	658,000		658,000
28	AO Smith	PSFT	185,082	169,747	354,829
29	Aon Australia	PSFT	42,248	29,617	71,865
30	Apria Healthcare	JDE	407,651		407,651
31	ARC	PSFT	90,000		90,000
32	Ariba	PSFT	170,660		170,660
34	ArvinMeritor	PSFT	836,080		836,080
35	Asia Pacific Breweries	JDE	2,488		2,488
36	ASTAR Air Cargo	PSFT	(161,904)	250,000	88,096
37	Atlantic Container Store	JDE	3,535		3,535
38	Atlantic Marine	JDE	50,625	16,875	67,500
39	Autobuses de la Piedad	JDE	-		-
40	Bacup Shoe	JDE	11,559	11,164	22,724
41	Baker Botts	PSFT	78,000	7,280	85,280
42	Baptist Health System	PSFT	149,964		149,964
43	Barrie Hydro	JDE	62,853	12,413	75,266
44	BASF AG	PSFT	65,660		65,660
45	Basler Electric	JDE	86,304	75,000	161,304
46	Baxter International	PSFT	368,788	200,000	568,788
47	BBS Electronics	JDE	11,913		11,913
48	BEA Systems	PSFT	85,000		85,000
49	Beacon Industrial Group	JDE	15,750		15,750
50	Bear Stearns	PSFT	574,750		574,750
51	Berkshire Realty	PSFT	76,000		76,000
52	Big Lots	PSFT	538,648		538,648
53	Blue Cross Blue Shield of KS	PSFT	26,600		26,600
54	Blue Diamond Growers	PSFT	21,029	23,572	44,601
55	BM Nagano	JDE	1,700	2,563	4,263
56	Bonne Bell	JDE	41,472	35,460	76,932
57	Border Foods	JDE	21,027		21,027
58	Borders Group	PSFT	411,339	20,816	432,156
59	Brain LAB	JDE	-		-
60	Brenco	JDE	35,000		35,000
61	Brigham Young	PSFT	40,250		40,250
62	BT Fuze	JDE	49,463		49,463
63	By Referral Only	SBL	-		-

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
64	CA	PSFT	75,000		75,000
65	California Water Services	PSFT	70,000		70,000
66	Canning Vale	JDE	71,366		71,366
67	Capital Group	PSFT	80,000		80,000
68	Captain D's	JDE	19,343	7,750	27,093
69	Caremark	PSFT	55,000		55,000
70	Carrols	PSFT	85,485		85,485
71	Caterpillar Underground	JDE	(13,316)	50,348	37,032
72	CC Industries	JDE	99,665		99,665
72	CC Industries	PSFT	202,483		202,483
73	Central Garden and Pet	JDE	51,850		51,850
74	Channing Bete	JDE	52,413	26,500	78,913
75	Children's Health System of AL	PSFT	211,556	57,883	269,439
76	Ciber	PSFT	-		-
77	Circuit City	PSFT	230,000		230,000
78	City of Atlanta	PSFT	131,250		131,250
79	City of Flint	PSFT	137,750		137,750
80	City of Huntsville	PSFT	192,217		192,217
81	City of Medicine Hat	JDE	80,119		80,119
82	City of Windsor	PSFT	-		-
83	CKE Restaurants	PSFT	180,000		180,000
84	Clear Channel Management	PSFT	-	86,150	86,150
85	CNH America	JDE	408,375		408,375
86	Commerce Bank	PSFT	8,615	61,583	70,198
87	CompuCom	PSFT	181,580		181,580
88	ConAgra Foods	PSFT	732,302	129,075	861,377
89	Contico	JDE	4,940		4,940
90	Coors Brewers Ltd	JDE	105,049		105,049
91	Coors Brewing Company	PSFT	109,867	16,441	126,308
92	Coty	JDE	262,500		262,500
93	Coty Mexico	JDE	27,367		27,367
94	Cowlitz County	PSFT	207,676		207,676
95	Crayola	JDE	14,583		14,583
96	Crothall Services	JDE	11,726		11,726
97	CSBP Limited	JDE	76,233		76,233
97	CSBP Limited	SBL	50,822		50,822
98	CSK Auto	PSFT	80,725		80,725

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
99	Dana Corporation	PSFT	57,000		57,000
100	Decorative Concepts	JDE	26,626		26,626
101	Delta Dental Plan of Michigan	PSFT	217,065		217,065
102	DHL Container Logistics	JDE	49,555		49,555
103	Diamond Cluster	PSFT	185,000		185,000
104	Diocesan Service	PSFT	237,600		237,600
105	Direct Energy Marketing	PSFT	133,836		133,836
106	Dominion Homes	JDE	7,695		7,695
107	Drexel Heritage	JDE	34,217		34,217
108	Durr	JDE	79,596	23,700	103,296
109	E.Piphany	PSFT	75,000		75,000
110	Eagle Family Foods	PSFT	122,263		122,263
111	East Bay Municipal Utility District	PSFT	239,647	82,670	322,317
112	Ecolab	JDE	(350,000)	452,404	102,404
113	Education Direct	JDE	93,238		93,238
114	El Paso Corporation	PSFT	1,238,771		1,238,771
115	Electrolux IT Solutions	JDE	1,373,509		1,373,509
116	Empire District Electric	PSFT	45,233	210,000	255,233
117	Employees' Retirement System of GA	PSFT	70,000		70,000
118	Eriez Manufacturing	JDE	36,677	10,674	47,351
119	Everdream	SBL	31,000		31,000
120	Fabrica Nacional	JDE	25,000		25,000
121	Fairchild Semiconductor	PSFT	688,500		688,500
122	Federated Services	PSFT	52,118	32,754	84,872
123	Fireman's Fund	PSFT	(412,500)	412,500	-
124	First Virginia Services	PSFT	75,000		75,000
125	Five Star Quality Care	PSFT	130,000		130,000
126	Fletcher Allen Healthcare	PSFT	140,000		140,000
127	Flint Group Incorporated	JDE	116,108		116,108
128	Florida Tile Industries	PSFT	20,000		20,000
129	Foot Locker	PSFT	1,194,875		1,194,875
130	Foreign Candy	JDE	36,925		36,925
131	Forth Ports	JDE	-	27,119	27,119
132	Foss Maritime	JDE	(5,897)	17,500	11,603
133	FP Bois	JDE	1,631	14,814	16,445
134	Fujitsu Siemens	JDE	669,361		669,361

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
135	Fundamental Administrative Services	PSFT	(28,250)	250,000	221,750
136	General Chemical Group	PSFT	81,250		81,250
137	Genesis Healthcare	PSFT	56,088	37,393	93,481
138	George Weston Bakeries	PSFT	67,500		67,500
139	GFM Textile (Mexico)	JDE	20,900		20,900
140	GKN Driveline North America	PSFT	124,000		124,000
141	Global Santa Fe	PSFT	160,062		160,062
142	Great Western Malting	PSFT	-		-
143	Greater Vancouver Regional District	PSFT	148,047		148,047
144	Gregg Appliances	PSFT	17,940		17,940
145	Grupo Convermex	JDE	10,160	35,840	46,000
146	Gruppo GALBANI	JDE	-		-
147	Hagar Electro	SBL	(7,185)	16,666	9,481
148	Harley-Davidson	JDE	93,295		93,295
148	Harley-Davidson	PSFT	82,996		82,996
149	Haworth	PSFT	90,599		90,599
150	Helzberg Diamond Shops	JDE	38,966	16,670	55,636
151	Henry Production	JDE	39,973	10,000	49,973
152	Herbert Waldmann Lichttechnik	JDE	5,480	8,553	14,033
153	Heritage Valley Health	PSFT	325,714		325,714
154	High Industries	PSFT	90,000		90,000
155	Hitachi Global Storage Technologies	PSFT	285,734	279,286	565,020
156	Holland Casino	PSFT	-		-
157	Home Depot	PSFT	(1,730)	195,000	193,270
158	Honeywell	PSFT	266,751		266,751
159	Hong Kong and Shanghai Bank	PSFT	5,016		5,016
160	Host Communications	JDE	28,000		28,000
161	Hubbard Construction	JDE	12,250		12,250
162	Huntsville Hospital	PSFT	64,455		64,455
163	Hydro One Networks	PSFT	8,394	175,989	184,383
164	Hyundai Motor UK	JDE	45,754		45,754
165	ICF Consulting	PSFT	162,500		162,500
166	II Stanley	JDE	16,527		16,527
167	InBev UK	JDE	33,761	52,644	86,405
168	Informatica	PSFT	48,235	7,500	55,735
169	Information Handling Service	PSFT	10,000		10,000
170	Integrus Health	PSFT	17,000		17,000

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
171	Interpublic Group	PSFT	84,001	100,000	184,001
172	Intmu B.V.	JDE	109,765	63,635	173,400
173	Intraware	PSFT	65,200		65,200
174	J.B. Hunt	PSFT	294,101	39,040	333,141
175	J.W. Harris	PSFT	40,500		40,500
176	JALPAK International	JDE	12,500		12,500
177	Japan Travel Bureau	JDE	6,618		6,618
178	Just Born	JDE	34,724		34,724
179	Kellstrom Industries	JDE	41,932		41,932
180	Kent County Michigan	PSFT	97,433	43,411	140,844
181	Kentucky Fried Chicken	JDE	3,309	3,640	6,949
182	Keppel Shipyard	PSFT	29,782		29,782
183	KMC Telecom Holdings	PSFT	60,000		60,000
184	Koontz-Wagner	JDE	30,000		30,000
184	Koontz-Wagner	PSFT	81,534		81,534
185	Laird Plastics	JDE	120,000		120,000
186	Lakeside Manufacturing	JDE	42,351		42,351
187	Lexmark	JDE	450,000	75,000	525,000
188	Liberata UK	JDE	-		-
190	Lincoln Property	JDE	20,066	6,494	26,560
191	Lion ReSources	PSFT	-	81,000	81,000
192	Littleton Public Schools	JDE	31,930		31,930
193	Lockheed Martin	PSFT	50,000		50,000
194	Longaberger	PSFT	(217,396)	500,000	282,604
195	LS Management	PSFT	438,410	94,875	533,285
196	Madix	SBL	-	26,000	26,000
197	Magee Clothing	JDE	6,861		6,861
198	Manitowoc	PSFT	70,000		70,000
199	Manugistics	PSFT	272,271		272,271
200	Markel	PSFT	88,566		88,566
201	McLennan	PSFT	117,487		117,487
202	Merck	JDE	643,863		643,863
202	Merck	PSFT	(2,101,195)	2,670,000	568,805
203	Metex	JDE	48,147		48,147
204	Metro Machine	JDE	51,188	18,833	70,021
205	Mieco	PSFT	107,640		107,640

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
206	MKS	JDE	25,000		25,000
206	MKS	SBL	1,144	27,500	28,644
207	Municipality of Anchorage	PSFT	242,506		242,506
208	Murphy-Brown	JDE	46,284	63,750	110,034
209	Mutual of Omaha	PSFT	(215,500)	500,000	284,500
210	National Americas Investment	PSFT	104,921		104,921
211	National Foods	JDE	-		-
212	National Manufacturing	JDE	80,000		80,000
213	National Surgical Hospitals	PSFT	45,000	16,500	61,500
214	NBC Universal	PSFT	430,769		430,769
215	NC State	PSFT	285,000		285,000
216	Neaton Auto Products Mfg.	JDE	29,320	7,750	37,070
217	New Era Cap	PSFT	121,170		121,170
218	Newport	PSFT	20,000		20,000
219	Newtron	PSFT	12,200		12,200
220	NextiraOne	SBL	164,444		164,444
221	NiSource	PSFT	90,000		90,000
222	Nitta Casings	JDE	29,155	6,250	35,405
223	Norstan Communications	PSFT	385,172	149,940	535,112
224	Northern Group Training	JDE	4,575		4,575
225	Norwegian Cruise Lines	PSFT	256,800		256,800
226	Oce-Technologies	JDE	95,998	95,453	191,450
227	Oklahoma Publishing	PSFT	14,761	15,000	29,761
228	Olin	PSFT	211,500	21,025	232,525
229	On Assignment	JDE	21,146		21,146
230	Organon International	PSFT	81,230		81,230
231	Organon Mexicana	JDE	3,500		3,500
232	Overwaitea Food Group	PSFT	75,499		75,499
233	Oxford Global	PSFT	100,000		100,000
234	Park Associates	PSFT	325,459		325,459
235	Parkview Health	PSFT	238,191	84,163	322,354
236	PCI Limited	JDE	38,462		38,462
237	Pepsi Americas	PSFT	820,233		820,233
238	Perdue Farms	PSFT	46,000		46,000
239	Petco	PSFT	90,000	173,781	263,781
240	Petroleum Geo-Services	PSFT	134,247		134,247

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
241	PetSmart	PSFT	248,932		248,932
242	Pfizer	PSFT	271,238	85,595	356,833
243	Phelps Dodge	PSFT	143,271	216,090	359,361
244	Philadelphia Corporation of Aging	PSFT	127,501		127,501
245	Pillsbury Winthrop	PSFT	87,497	42,128	129,625
246	Pomeroy IT Solutions	SBL	45,000		45,000
247	Powerway	PSFT	23,625		23,625
248	Praxair	JDE	538,016		538,016
248	Praxair	PSFT	284,500		284,500
249	Pretty Products	JDE	31,930		31,930
250	PRG Shultz	PSFT	-		-
251	Prime Group Realty	JDE	42,625		42,625
252	Progress Software	PSFT	97,500		97,500
253	Proliance	JDE	48,960	32,640	81,600
254	ProQuest	PSFT	40,000		40,000
255	Providence Health	PSFT	247,500		247,500
256	PSCU Financial Services	SBL	23,838		23,838
257	PTL Information Technology	JDE	446,514		446,514
258	Quad Graphics	PSFT	268,900		268,900
259	Remy International	PSFT	202,541		202,541
260	Rentway	PSFT	301,875		301,875
261	Richardson Electronics	PSFT	-		-
262	Richmond Power & Light	PSFT	67,187	20,000	87,187
263	Robert Half	PSFT	119,544	650,000	769,544
264	Rockwell	PSFT	147,621		147,621
264	Rockwell	SBL	282,460		282,460
265	Rockwood Pigments	JDE	6,604	10,306	16,909
266	Rolls-Royce of NA	PSFT	125,775		125,775
267	Ronis	JDE	9,994	14,707	24,700
268	Ross	PSFT	15,000		15,000
269	Rotkaeppchen Sektkellerei	JDE	-		-
270	Royal Holiday	JDE	17,000	34,000	51,000
271	RTKL	PSFT	14,078		14,078
272	Safeway	PSFT	455,834		455,834
273	Saint Barnabas Health	PSFT	348,938		348,938
274	Sandia Labs FCU	JDE	11,375	13,250	24,625
274	Sandia Labs FCU	PSFT	10,800		10,800

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
275	Sara Lee	JDE	(571,168)	794,700	223,532
276	Sasol North America	PSFT	65,000		65,000
277	Savage Services	PSFT	15,875		15,875
278	Schaffner Holding	JDE	38,647		38,647
279	Schott North America	JDE	25,000		25,000
280	SCSG Management	JDE	7,767		7,767
281	Seattle Public Schools	PSFT	173,555		173,555
282	Seven Seas	JDE	55,108		55,108
283	Shands Healthcare	PSFT	349,962		349,962
284	Sierra Pacific	PSFT	175,000		175,000
285	Simon Property	PSFT	208,036	58,250	266,286
286	Sirva	PSFT	170,170		170,170
287	Sky City Entertainment	PSFT	142,528	67,649	210,177
288	Smart Centers	SBL	6,678		6,678
289	Solar Sources	JDE	40,625		40,625
290	Sony Pictures	PSFT	28,000	2,712	30,712
291	Southern California Edison	PSFT	360,000		360,000
292	Spokane County	PSFT	91,977	15,161	107,138
293	SPX Cooling Technology	JDE	28,059	12,690	40,749
294	SPX Flow Technology	JDE	23,443	10,604	34,047
295	St. Lukes Cornwall Hospital	PSFT	-	26,000	26,000
296	Standard Register	PSFT	364,986		364,986
296	Standard Register	SBL	449,247		449,247
297	Stanley Electric	JDE	11,890		11,890
298	StarHub	PSFT	86,388		86,388
299	Stora Enso North America	JDE	(2,800)	370,000	367,200
300	Suburban Propane	PSFT	160,199	27,563	187,762
301	Susquehanna Pfaltzgraff	PSFT	50,000		50,000
302	Sybase	PSFT	546,315		546,315
303	Syngenta Crop Protection	PSFT	72,425	35,619	108,044
304	Telapex	PSFT	218,000	31,658	249,658
305	Texas Association of School Boards	JDE	5,480	14,560	20,040
306	Texas Health and Human Services	PSFT	137,500		137,500
307	Texas Medical Association	JDE	11,106	15,450	26,556
308	Textile Management	JDE	13,359	6,250	19,609
309	Toms Snacks	JDE	49,000		49,000

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		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
310	Toshiba America Info Systems	PSFT	122,533		122,533
311	Transfield Services New Zealand	JDE	77,073	54,156	131,228
312	Travel Centers of America	PSFT	-		-
313	Trends International	PSFT	40,648		40,648
314	Trenwick America	PSFT	19,828	27,293	47,121
315	Tripoint Corporation	PSFT	20,427		20,427
316	TriQuint Semiconductor	PSFT	-		-
317	Tropical Shipping	PSFT	195,136	41,955	237,091
318	United Dominion Realty	PSFT	162,854		162,854
319	United Space Alliance	PSFT	92,000		92,000
320	Universitas 21 Global	PSFT	44,139		44,139
321	University Health System	PSFT	35,000		35,000
322	University of Massachusetts	PSFT	169,373		169,373
323	University of New Orleans	PSFT	40,000		40,000
324	UPM-Kymmene UK (Shotton)	JDE	3,959	13,471	17,430
325	US Oncology	PSFT	91,319		91,319
326	USA Waste Management Resources	PSFT	514,375		514,375
327	UT Health Science Center	PSFT	266,750		266,750
328	UT MD Anderson Cancer Center	PSFT	93,590		93,590
329	Valero Energy	PSFT	61,151		61,151
330	Van Hessen	JDE	(5,389)	15,909	10,519
331	Vanderbilt University	PSFT	237,500		237,500
332	Vanguard Managed Solutions	JDE	25,000		25,000
333	Vector Limited	JDE	-		-
334	Veka	JDE	(62,836)	62,836	0
335	Veolia Water Indianapolis	PSFT	76,250		76,250
336	Visteon	PSFT	394,484		394,484
337	VSM Group	JDE	11,481	50,000	61,481
338	Vulcan Materials	PSFT	12,500		12,500
339	W.C. Wood	JDE	99,345		99,345
340	Wabash National	JDE	156,500		156,500
341	Wakefern Food	PSFT	31,063		31,063
342	Washington Gas Light	PSFT	450,000		450,000
343	Watson Laboratories	SBL	-	17,701	17,701
344	Weil-McLain	JDE	44,644	16,921	61,565
345	Wellbridge	PSFT	17,785		17,785
346	Wendy's	PSFT	374,445		374,445

		Meyer Schedule 41.U; Clarke Schedule O			
Meyer Ref ID	Meyer Customer Name	Product Line	TN Revenues Less Settlement Fee	Settlement Fee	Total TN Revenues Excl. Settlement Fee
347	Wesfarmers Federation Insurance	JDE	35,265	23,383	58,648
348	Westcode Semiconductors	JDE	1,917	7,668	9,585
349	Westcon	JDE	300,179		300,179
350	Wheeler's	JDE	117,600		117,600
351	Winn-Dixie	PSFT	35,000		35,000
352	World Kitchen (Asia Pacific)	JDE	7,942		7,942
353	WorldTex	JDE	112,500		112,500
354	WWL Vehicle Services	JDE	31,500		31,500
355	Yazaki Europe	JDE	459,280		459,280
356	Yazaki North America	JDE	200	214,577	214,777
357	Zimmer	JDE	660,714	125,000	785,714
358	ZMC Technologies	JDE	1,214	2,907	4,121

534. For the purposes of calculating Oracle International Corporation's lost profits, Oracle International Corporation's IC's incremental profit margin on lost support revenue is 95%.

535. Oracle's overall annual support revenue attrition rates on its PeopleSoft products were approximately 7% during the period of December 2005 to May 2006, 5% during the period of June 2006 to May 2008, and 3% during the period from June 2008 to February 2009.

536. Oracle's overall annual support revenue attrition rates on its J.D. Edwards products were approximately 10% during the period of December 2005 to May 2006, 9% during the period of June 2006 to May 2007, and 5% during the period from June 2007 to February 2009.

537. During the period of June 2006 to May 2007, Oracle's overall annual support revenue attrition rate on its Siebel products was approximately 4%.

538. Prior to Oracle's acquisition, PeopleSoft experienced an average annual support revenue attrition rate of 6.3%, and had forecast annual support revenue attrition for 2005 to be 2.5%.

539. Prior to its acquisition by Oracle, Siebel's customer annual support renewal rates

1 were approximately 90% (based on the number of customers), and at the time of the acquisition,  
 2 Oracle management forecast Siebel annual support revenue attrition to be 7%.

3 540. The below chart lists sublicense rates paid by Oracle affiliates to Oracle  
 4 International Company in the columns titled “Sublicensee Fee Paid to OIC “ and “Sublicensee  
 5 Fee Paid to OIC After Jan 2008” on the PeopleSoft, Inc., J.D. Edwards, and Siebel products, for  
 6 the dates listed therein.

Contracting Entity	Territory	Effective Date	Sublicensee Fee Paid to OIC	OCAPAC Buy-In Factor <sup>4</sup>	Sublicensee Fee Paid to OIC After Jan 2008
			A	B	C = A * B
Oracle USA, Inc. (and its predecessors in interest)	United States	3/1/2002	35%	N/A	
		6/1/2004	39%	N/A	
Oracle Corporation Australia Pty, Limited	Australia, Pacific Islands, Papua New Guinea	6/1/2004	39%	22%	9%
Oracle New Zealand	New Zealand	6/1/2004	39%	22%	9%
		6/1/2009	70%	22%	15%
Oracle Corporation Singapore Pte. Ltd.	Sinagpore, Bangladesh, Brunei, Nepal, Sri Lanka, Maldives, Cambodia, Myanmar, Laos, Bhutan, Pakistan	6/1/2004	39%	22%	9%
		6/1/2009	54%	22%	12%
Oracle Corporation Canada	Canada	6/1/2004	57%	22%	
		6/1/2005	65%	22%	
		6/1/2007	55%	22%	12%
Oracle do Brasil Sistemas Limitada	Brazil	6/1/2004	58%	N/A	
Oracle de Mexico, S.A. de C.V.	Mexico	6/1/2004	57%	N/A	
Oracle Information Systems Japan KK (f.k.a. PeopleSoft Japan KK)	Japan	6/1/2005	39%	N/A	
Oracle Technology Company	EMEA (JDE World Products)	2005	39%	N/A	

<sup>4</sup> Effective January 25, 2008, OIC assigned the financial rights and beneficial ownership of distribution agreements with Oracle entities in Canada and the Asia Pacific (excluding Japan) to Oracle CAPAC Services Limited (OCAPAC Services). Through a series of other agreements, the license fees received by OCAPAC Services under the distribution agreements are remitted to Oracle CAPAC Finance S.a.r.L. (OFS2), which then pays a sublicense fee to OCAPAC Research Company (ORC). ORC then pays sublicense fees to OIC. A reasonable estimate of what OIC ultimately receives as a result of this arrangement is approximately 22% of the license fee originally paid by the Oracle distributor entity to OCAPAC Services.

Contracting Entity	Territory	Effective Date	Sublicensee Fee Paid to OIC	OCAPAC Buy-In Factor <sup>4</sup>	Sublicensee Fee Paid to OIC After Jan 2008
			A	B	C = A * B
OCAPAC Research Company	Canada & Asia-Pacific (excl. Japan) (JDE World Products)	1/25/2008	39%	N/A	

**IV. STIPULATIONS**

**A. Existing Stipulations**

The Parties have agreed to the following stipulations:

1. TomorrowNow stipulated to all liability on all claims, preserving no defenses except for those relating to damages. SAP stipulated to contributory infringement and vicarious liability on the copyright claims against TomorrowNow and agreed to guarantee payment of any judgment awarded against TomorrowNow or SAP.

2. The Parties agreed that subject only to trial time limits, the Parties may present evidence at trial related to the stipulated claims as background or context for the stipulated claims, and/or as relevant to damages. The Parties will not object to evidence related to the stipulated claims pursuant to Federal Rules of Evidence 401-403 on grounds that the evidence relates to the stipulated claims.

3. Discovery responses served by the Parties are deemed verified by the responding party or Parties pursuant to the Federal Rules of Civil Procedure.

4. All documents and data produced by the Parties during the course of the litigation are authentic and genuine pursuant to the Federal Rules of Evidence.

5. The individual testimony of John Baugh and William Thomas on December 3 and 4, 2010, respectively, may be considered as corporate Rule 30(b)(6) testimony with respect to Defendants copying and use of Oracle's Database products. The individual testimony of Michael Garafola on September 17, 2009, may be considered as corporate Rule 30(b)(6) testimony on the same topics. The Oracle Database software to which Mr. Garafola referred to during his deposition originated from the same Oracle Database software downloads testified to by Mr. Baugh.

6. The Parties agreed that certain native productions of databases used by Defendants shall be admissible pursuant to the Federal Rules of Evidence for certain purposes, as agreed by

1 email on November 3, 2009 and as described in the Stipulation re  
2 Admissibility of TN Databases.

3 7. The Parties agree that for readability and ease of use of  
4 trial exhibits, they will cooperate in substituting native documents  
5 with appropriate markings for any previously marked non-native  
6 version of trial exhibits.

7 8. The Parties have agreed to the availability for trial of  
8 certain media stored at TN, including the collection of media  
9 known as the "CD Binders," and the admissibility of a neutral-  
10 party index of information recorded on the labels of certain of that  
11 media, all as reflected in the CD Storage and Access Agreement  
12 of October 23, 2009. The Parties have also stipulated to the  
13 admissibility of the final version of the related Merrill  
14 Corporation Coding Manual of October 27, 2009.

## 15 **V. DISPUTED POINTS OF LAW**

16 The Parties agree that there will be a number of discrete points of law in dispute at or  
17 before trial, including legal disputes as to the admissibility of evidence, some of which are  
18 addressed in the Parties' separately filed motions in limine and trial briefs. The Parties have  
19 endeavored to identify below the key disputed points of law that this Court will have to decide at  
20 or before trial. This is not intended to be an exhaustive list of all disputed points of law that may  
21 arise at or before trial.

22 1. Oracle has moved for clarification regarding whether it may present evidence in  
23 support of a "hypothetical" license, otherwise known as a fair market value license, at trial.  
24 Defendants contend that this is not a disputed point of law because the Court has already ordered  
25 that the new trial is limited to actual damages in the form of lost profits and infringer's profits.  
26 Should Oracle be allowed to present the hypothetical license theory of damages at the new trial,  
27 Oracle contends that the following issues are disputed points of law. Defendants contend that the  
28 Court has already ruled on these issues.

a. Whether Oracle may present evidence of its own contemporaneous  
expectations on which it relied to value the PeopleSoft transaction, related  
to the PeopleSoft customer base prospective purchases of additional  
Oracle products after that transaction.

b. Whether Oracle may present evidence of Defendants' saved development

1 costs due to their infringement of Oracle’s software instead of creating it  
2 themselves to show the value of what Defendants infringed.

3 c. Whether the jury should be instructed that Oracle is entitled to  
4 hypothetical license damages plus non-duplicative infringer’s profits.

5 d. Whether copyright damages based upon the amount a willing buyer would  
6 reasonably have had to pay a willing seller under a hypothetical license  
7 requires the copyright owner to provide evidence of (a) actual licenses it  
8 entered into or would have entered into for the infringed works and/or (b)  
9 actual “benchmark” licenses entered into by any party for comparable use  
10 of the infringed or comparable works.

11 e. Whether copyright damages measured by the amount a willing buyer  
12 would have paid a willing seller for a hypothetical license to the rights  
13 infringed are sufficiently established by evidence of: (a) the infringer’s  
14 contemporaneous projections of the profits it would realize from use of the  
15 rights, (b) the copyright owner’s contemporaneous evidence valuing the  
16 business it would lose if it licensed those rights, and (c) expert testimony  
17 as to the fair market value of a hypothetical license to the rights, based  
18 upon that evidence.

19 2. Whether Defendants may present opinion testimony from their expert Stephen  
20 Clarke as to why SAP and TomorrowNow customers terminated their relationship with Oracle or  
21 made purchases from SAP.

22 3. The admissibility of certain Oracle and/or customer documents, including select  
23 excerpts of Oracle’s “At-Risk Report,” as, for example, party admissions, adoptive admissions,  
24 as pertaining to the declarant’s then-existing “state of mind” (which may qualify as non-hearsay  
25 or fall within the “state of mind” exception to the hearsay rule), or under the residual exception  
26 to the hearsay rule.

27 4. The admissibility of evidence that on September 14, 2011, TomorrowNow pled  
28 guilty to 11 counts of “Unauthorized Access to a Protected Computer with Intent to Defraud and

1 Obtaining Something of Value” and one count of “Criminal Copyright Infringement.”

2 5. The admissibility of evidence, statements, and/or questions referring to “theft” or  
3 “stealing” of software.

4 6. The admissibility of evidence and argument in support of lost profits and  
5 infringer’s profits claims different from those previously disclosed and adopted by Oracle and its  
6 damages expert, as presented in JTX-6.

7 7. The admissibility of evidence, statements , and/or questions that challenge the  
8 completeness and accuracy of the “List of 86” customers.

9 **VI. BIFURCATED TRIAL NOT FEASIBLE NOR DESIRED**

10 The Parties agree that a bifurcated or separate trial for specific issues in neither feasible  
11 nor desired in this case.

12 **VII. STATEMENT REGARDING PROPOSED TRIAL MANAGEMENT**  
13 **PROCEDURES**

14 Joint Statement Regarding Deposition Designations:

15 The Parties stipulate, and ask the Court to order, to follow the previous practice of  
16 exchanging and submitting objections to deposition designations prior to trial, with the Court  
17 ruling on these objections, also prior to trial. Specifically, the parties stipulate to:

- 18 • exchange objections to initial and counter deposition designations on May 29;  
19 • exchange objections on counter-counter designations on June 3;  
20 • meet and confer about the objections on June 4;  
21 • exchange final objections on June 8; and  
22 • lodge with the Court a chart of the designations and objections on June 11 (consistent  
23 with the chart submitted prior to the previous trial).

24 The parties request that the Court rule on the objections prior to the start of playing  
25 deposition testimony at the new trial.

26 Plaintiff’s Statement Regarding Exhibits:

27 Defendants’ proposal to limit each side to 200 exhibits at trial is unreasonable, especially  
28 at this stage. Plaintiffs remain committed to ensuring trial progresses efficiently and, even

1 without the Court's final answer regarding the scope of trial, Oracle has cut its prior exhibit list  
2 by more than half. Further, Oracle will attempt to stipulate to as many facts as possible before  
3 the commencement of trial. However, if the Parties are unable to agree to a significant number  
4 of additional facts, Oracle must be allowed to submit the evidence necessary to prove its claims.

5 As but one example, Oracle must be allowed to preserve its option to seek admission of  
6 the underlying business records that support Oracle's damages calculations. Oracle's expert's  
7 damages analyses relied on hundreds of relevant business records and thus, absent a stipulation  
8 of the parties to the underlying facts, Oracle's exhibit list will include these business records and  
9 be much longer than the 200 exhibits proposed by SAP (for instance, Oracle claims damages on  
10 more than 200 customers). If the Parties are able to reach agreement on any additional stipulated  
11 facts, Oracle would of course be willing to remove exhibits from the list that are no longer  
12 necessary. In addition, Oracle will seek to admit many of these exhibits as compilations, so even  
13 though they will be listed individually, they will not cause an undue burden on the Parties or the  
14 Court.

15 Oracle will also seek leave to file a motion for additional time at trial, and has included  
16 the evidence it would introduce to support its claims if the Court grants Oracle's motion. As a  
17 practical matter, the Court's time limits imposed upon the Parties will limit the number of  
18 exhibits each party introduces at trial.

19 Furthermore, given the Court's rulings that the evidence Oracle presented at the prior trial  
20 was insufficient, Oracle should not be limited, at the outset, in the number of exhibits it can  
21 present to meet its burden. Accordingly, Oracle requests that, like the last trial, the Court place  
22 no limits on the number of exhibits the Parties may use. Defendants will not be prejudiced by  
23 this decision as, with limited exceptions, SAP has seen every document on Oracle's exhibit list at  
24 the last trial.

25 The Court should not rule on evidentiary objections in advance of trial, but should rule as  
26 it did at the last trial in advance of each day's session on the exhibits the Parties' intend to admit  
27 that day. Contrary to its claims, SAP's request that the Court hear and resolve objections in  
28 advance of trial will needlessly increase the time and resources the Court will be required to

1 expend. Because the parties may stipulate to additional facts after the Court rules, and because  
2 the parties may decide not to present certain exhibits as the trial progresses, if the Court grants  
3 SAP’s proposal the Court will be forced to consider and rule on several exhibits that are never  
4 admitted at trial. Accordingly, Oracle proposes that the Parties meet and confer and identify a  
5 schedule to identify exhibits likely to be played at trial, exchange objections to those exhibits,  
6 attempt to resolve those objections, and then submit any remaining objections to the Court in  
7 advance of the exhibits’ use at trial.

8 Defendants’ Statement Regarding Exhibits:

9 To ensure an efficient and focused trial, and to avoid wasting time and resources  
10 managing thousands of exhibits and related objections—particularly when only 191 exhibits  
11 were admitted at the last trial—Defendants propose to follow a procedure much like that  
12 proposed for deposition designations:

- 13 • each side is limited to no more than 400 exhibits that it intends to offer in its case in  
14 chief in support of a claim or defense;
- 15 • exchange agreed admissions and objections to the 400 exhibits on May 29;
- 16 • meet and confer regarding objections on June 4 (and thereafter as necessary)  
17 including having a decision maker involved in each discussion;
- 18 • exchange revised, final objections on June 8; and
- 19 • each party submits to the Court on June 11: (1) a chart of those exhibits to which the  
20 other side objects that it requests the Court pre-admit, including columns for the exhibit number,  
21 exhibit description, the objection, the response, and the summary of the support for admitting the  
22 exhibit, (2) the exhibits themselves, and (3) the support for admitting the exhibit. Alternatively,  
23 the Parties could present a subset of documents that represent categories of admissibility issues  
24 likely to arise (*i.e.*, party admissions, adoptive admissions) to obtain the Court’s guidance and  
25 provide further direction to the Parties as they prepare for trial.

26 Defendants request that the Court rule on the objections prior to the new trial. Far  
27 from creating unnecessary work for the Court, by mitigation the need to play foundational  
28 testimony or present foundational documents during trial in front of the jury, the parties would

