

1 BINGHAM McCUTCHEM LLP
 DONN P. PICKETT (SBN 72257)
 2 GEOFFREY M. HOWARD (SBN 157468)
 HOLLY A. HOUSE (SBN 136045)
 3 ZACHARY J. ALINDER (SBN 209009)
 BREE HANN (SBN 215695)
 4 Three Embarcadero Center
 San Francisco, CA 94111-4067
 5 Telephone: (415) 393-2000
 Facsimile: (415) 393-2286
 6 donn.pickett@bingham.com
 geoff.howard@bingham.com
 7 holly.house@bingham.com
 zachary.alinder@bingham.com
 8 bree.hann@bingham.com

9 DORIAN DALEY (SBN 129049)
 JENNIFER GLOSS (SBN 154227)
 10 500 Oracle Parkway, M/S 5op7
 Redwood City, CA 94070
 11 Telephone: (650) 506-4846
 Facsimile: (650) 506-7114
 12 dorian.daley@oracle.com
 jennifer.gloss@oracle.com

13
 14 Attorneys for Plaintiffs
 Oracle USA, Inc., Oracle International
 Corp., Oracle Systems Corp., Oracle
 15 EMEA Ltd., and J.D. Edwards Europe Ltd.

Robert A. Mittelstaedt (SBN 060359)
 Jason McDonell (SBN 115084)
 Elaine Wallace (SBN 197882)
 JONES DAY
 555 California Street, 26th Floor
 San Francisco, CA 94104
 Telephone: (415) 626-3939
 Facsimile: (415) 875-5700
 ramittelstaedt@jonesday.com
 jmcdonell@jonesday.com
 ewallace@jonesday.com

Tharan Gregory Lanier (SBN 138784)
 Jane L. Froyd (SBN 220776)
 JONES DAY
 1755 Embarcadero Road
 Palo Alto, CA 94303
 Telephone: (650) 739-3939
 Facsimile: (650) 739-3900
 tglanier@jonesday.com
 jfroyd@jonesday.com

Scott W. Cowan (Admitted *Pro Hac Vice*)
 Joshua L. Fuchs (Admitted *Pro Hac Vice*)
 JONES DAY
 717 Texas, Suite 3300
 Houston, TX 77002
 Telephone: (832) 239-3939
 Facsimile: (832) 239-3600
 swcowan@jonesday.com
 jlffuchs@jonesday.com

Attorneys for Defendants
 SAP AG, SAP AMERICA, INC., and
 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 SAN FRANCISCO 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)

**STIPULATION TO PERMIT
 PLAINTIFFS TO FILE OPPOSITION
 TO MOTION TO DISMISS, AND
 DECLARATIONS AND EXHIBITS IN
 SUPPORT THEREOF, UNDER SEAL**

1 Pursuant to Local Rules 7-11(a) and 79-5(b)-(c), Plaintiffs Oracle USA Inc., Oracle
2 International Corporation, Oracle Systems Corporation, Oracle EMEA Limited, and J.D.
3 Edwards Europe Limited (“Plaintiffs”) and Defendants SAP AG, SAP America, Inc., and
4 TomorrowNow, Inc. (“Defendants”) jointly submit this stipulation to permit Plaintiffs to file
5 their Opposition to Defendants’ Motion to Dismiss (“Opposition”), and declaration and exhibits
6 in support thereof, under seal.

7 The requested relief is necessary and narrowly tailored to protect the alleged
8 confidentiality of the materials relied upon by Plaintiffs in opposing the Motion to Dismiss filed
9 by Defendants on October 15, 2008, until such time as the Court rules on the confidentiality of
10 the relevant subject matter.

11 Specifically, Exhibits D–T to the Declaration of Chad L. Russell in support of Plaintiffs’
12 Opposition to the Motion to Dismiss (“Russell Declaration”), and references to these exhibits
13 within the Opposition to Motion to Dismiss and the Declaration of Kevin Mandia in support of
14 the Opposition to Motion to Dismiss (“Mandia Declaration”), contain information designated by
15 Defendants as “Confidential Information” and “Highly Confidential Information - Attorneys’
16 Eyes Only,” pursuant to the Protective Order entered in this action on June 6, 2007.

17 Accordingly, the parties, through their respective counsel of record, stipulate that
18 Plaintiffs be permitted to file Exhibits D–T to the Russell Declaration, and unredacted versions
19 of Plaintiffs’ Opposition and the Mandia Declaration under seal. The parties further agree that
20 Plaintiffs reserve their rights to challenge the confidentiality of the information filed under seal
21 pursuant to this stipulation. The parties agree that neither the act of filing nor the filed
22 documents shall be construed as a waiver of confidentiality designation or other protection with
23 respect to documents, transcripts, or other information referred to in, or that serve as the basis
24 for, the allegations or arguments made therein.

25 IT IS SO STIPULATED.
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1 DATED: October 29, 2008

BINGHAM McCUTCHEN LLP

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By: /s/ Zachary J. Alinder

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Zachary J. Alinder
Attorneys for Plaintiffs
ORACLE USA, INC., ORACLE
INTERNATIONAL CORP., ORACLE
SYSTEMS CORP.,
ORACLE EMEA LTD., AND J.D.
EDWARDS EUROPE LTD.

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In accordance with General Order No. 45, Rule X, the above signatory attests that
concurrence in the filing of this document has been obtained from the signatory below.

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DATED: October 29, 2008

JONES DAY

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By: /s/ Tharan Gregory Lanier

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Tharan Gregory Lanier
Attorneys for Defendants
SAP AG, SAP AMERICA, INC., AND
TOMORROWNOW, INC.

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