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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

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

20 Plaintiffs,

21 v.

22 SAP AG, *et al.*,

23 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

**STIPULATION TO PERMIT
 PLAINTIFFS TO FILE
 DEFENDANTS' DOCUMENTS
 UNDER SEAL**

1 Pursuant to Local Rules 7-11(a) and 79-5(b)-(c), Plaintiffs Oracle USA, Inc., Oracle
2 International Corporation, and Oracle EMEA Limited (collectively, “Oracle”) and Defendants
3 SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively, “Defendants,” and with
4 Oracle, the “Parties”) jointly submit this stipulation to permit Oracle to file Defendants’
5 documents under seal.

6 The requested relief is necessary and narrowly tailored to protect the alleged
7 confidentiality of the materials put at issue by Oracle’s Motion to Compel Production of
8 Documents, Answers to Interrogatories, and Rule 30(b)(6) Testimony Related to Hyperion,
9 Retek, and EBS Products (“Motion to Compel”), until such time as the Court rules on the
10 confidentiality of the relevant subject matter.

11 Specifically, Exhibits A, D, E, and F to the Declaration of Geoffrey M. Howard in
12 support of Oracle’s Motion to Compel (the “Howard Declaration”), and references to these
13 Exhibits within the Howard Declaration, contain information designated by Defendants as
14 “Confidential Information” and “Highly Confidential Information - Attorneys’ Eyes Only,”
15 pursuant to the Protective Order entered in this action on June 6, 2007.

16 Accordingly, the Parties, through their respective counsel of record, stipulate that Oracle
17 be permitted to file Exhibits A, D, E, and F to the Howard Declaration and unredacted versions
18 of the Howard Declaration under seal. The Parties further agree that Oracle reserves its rights to
19 challenge the confidentiality of the information filed under seal pursuant to this Stipulation and
20 understand that this Stipulation is not intended to relieve Defendants’ burden, under Local Rule
21 79-5(d), of supporting the confidentiality of the documents at issue. The Parties agree that
22 neither the act of filing nor the filed documents shall be construed as a waiver of confidentiality
23 designation or other protection with respect to

1 documents, transcripts, or other information referred to in, or that serve as the basis for, the
2 allegations or arguments made therein.

3 IT IS SO STIPULATED.

4 DATED: January 16, 2009

BINGHAM McCUTCHEN LLP

5 By: /s/ Geoffrey M. Howard

6 Geoffrey M. Howard
7 Attorneys for Plaintiffs
8 Oracle USA, Inc., Oracle International
9 Corporation, and Oracle EMEA Limited

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

12 DATED: January 16, 2009

JONES DAY

13 By: /s/ Jason McDonell

14 Jason McDonell
15 Attorneys for Defendants
16 SAP AG, SAP America, Inc., and
17 TomorrowNow, Inc.