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 18 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.

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Case No. 07-CV-1658 PJH (EDL)

**STIPULATION TO PERMIT
 DEFENDANTS TO FILE UNDER
 SEAL PLAINTIFFS' DOCUMENTS
 SUPPORTING DEFENDANTS'
 MOTION TO COMPEL**

1 Pursuant to Local Rules 7-11(a) and 79-5(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. ("Defendants," and together with Oracle,
4 the "Parties") jointly submit this Stipulation to permit Defendants to file under seal Plaintiffs'
5 documents supporting Defendants' Motion to Compel Discovery Concerning Third Party Support
6 Provided by Oracle's Partners ("Motion to Compel") under seal.

7 WHEREAS, Defendants filed their Motion to Compel on January 16, 2009;

8 WHEREAS, the requested relief is necessary and narrowly tailored to protect the alleged
9 confidentiality of the materials put at issue by the Motion to Compel until such time as the Court
10 makes a final ruling as to confidentiality of the relevant subject matter. Specifically, Exhibits 18
11 and 19 to the Declaration of Jason McDonell ("McDonell Declaration") in support of Defendants'
12 Motion to Compel, and portions of the Motion to Compel and McDonell Declaration that
13 reference Exhibits 18 and 19, contain information designated by Plaintiffs as "Confidential
14 Information" and "Highly Confidential Information - Attorneys' Eyes Only" pursuant to the
15 Protective Order entered on June 6, 2007 in this action;

16 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their
17 respective counsel of record, that Defendant be permitted to file under seal Exhibits 18 and 19 to
18 the McDonell Declaration in support of Defendants' Motion to Compel, and portions of the
19 Motion to Compel and McDonell Declaration that reference Exhibits 18 and 19. The Parties
20 further agree that Defendants reserve their rights to challenge the confidentiality of the
21 information filed under seal pursuant to this Stipulation. While the Parties agree that the redacted
22 Motion to Compel may be filed publicly, the Parties also agree that the filing shall not be
23 construed as a waiver of any confidentiality designation or other protection with respect to
24 documents, transcripts or other information referred to in, or that serve as the basis for, the
25 allegations or arguments made in it.

26 **IT IS SO STIPULATED.**

1 DATED: January 16, 2009

JONES DAY

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By: /s/ Jason McDonell
Jason McDonell

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

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

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DATED: January 16, 2009

BINGHAM McCUTCHEN LLP

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By: /s/ Zachary J. Alinder
Zachary J. Alinder

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Attorneys for Plaintiffs
ORACLE USA, INC., ORACLE
INTERNATIONAL CORPORATION,
ORACLE SYSTEMS CORPORATION,
ORACLE EMEA LIMITED, and J.D.
EDWARDS EUROPE LIMITED

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