

1 Defendants' Fifth Set of Interrogatories and Oracle's Supplemental and Amended Initial  
2 Disclosures as if set forth here in full. Oracle further incorporates by reference the extensive  
3 evidence from Defendants' production and testimony concerning the fear, uncertainty and doubt  
4 ("FUD") consistently employed by Defendants to cause Oracle's customers to question the value  
5 of Oracle's service offerings and/or their products' future, Defendants' promises to Oracle's  
6 customers that TN offered "superior service at half the price" (or less) which further undermined  
7 those customers' perception of the value of Oracle's service and which delayed customers'  
8 purchases, spurred them to unreasonable negotiations with Oracle and/or lured Oracle's  
9 customers to TN and/or SAP; TN's misuse of Oracle IP – with SAP's knowledge – also created  
10 the impression that TN's service was comparable to Oracle's, which further undermined those  
11 customers' perception of the value of Oracle's service and which delayed customers' purchases,  
12 spurred them to unreasonable negotiations with Oracle and/or lured Oracle's customers to TN  
13 and/or SAP.

14 **Second Supplemental Response to Interrogatory No. 5(b):**

15 Oracle further objects to the extent that supplementation would require Oracle to  
16 summarize the documents and testimony provided on this subject, including, *e.g.*, the deposition  
17 testimony of Redacted  
18 Redacted and relevant Oracle 30(B)(6) testimony; Oracle cannot  
19 and will not and is not required to do so and incorporates all such evidence by reference into this  
20 supplemented answer. Subject to and without waiving the specific and general objections stated  
21 above, Oracle further incorporates by reference the damages-related responses and information  
22 contained in Oracle's responses to Defendants' Fifth Set of Interrogatories and Oracle's  
23 Supplemental and Amended Initial Disclosures as if set forth here in full. Oracle's production of  
24 such documents is continuing, but includes materials Bates numbered ORCL00000001 through  
25 ORCL00007714, ORCL00139148 through ORCL00159820, ORCL00176128 through  
26 ORCL00180465 and ORCL00372975 through ORCL00381654. Oracle further incorporates by  
27 reference the extensive evidence concerning (a) the limited alternative and legal service options  
28 available to the customers on Defendant TomorrowNow, Inc.'s Supplemental Exhibit 1 to its

1 First Sets of Requests for Production other than TN at the time such customers chose TN service,  
2 (b) the fact that no customer would have chosen to do business with TN had TN informed them it  
3 was providing service based on the host of improper and illegal methods detailed in Oracle's  
4 third amended complaint and revealed in this litigation; (c) the past histories of all such  
5 customers of doing business with Oracle or its predecessors at the prices Oracle and its  
6 predecessor companies charged; (d) the fact that, once a service customer is lost, it is difficult to  
7 get that customer to return for the host of reasons described in discovery, including reduction of  
8 the customers' service budget due to paying at least 50% less to TN and the difficulty of the  
9 responsible purchasing party at the customer explaining to his or her manager that he or she had  
10 erred in leaving Oracle service in the first place.

11 **INTERROGATORY NO. 6:**

12 For each Named Customer or TN Customer, describe in as much detail as possible the  
13 amounts Oracle is charging, or has charged, for support or maintenance services for each product  
14 referred to in the Complaint or at issue in this litigation.

15 **RESPONSE TO INTERROGATORY NO. 6:**

16 In addition to its General Objections, Oracle objects that the use of the defined term "TN  
17 Customer" makes this Interrogatory overbroad and unduly burdensome. Oracle further objects  
18 that this Interrogatory seeks information that is not relevant to the litigation, nor likely to lead to  
19 the discovery of admissible evidence. Oracle further objects to the undefined phrase "is  
20 charging, or has charged, for support or maintenance services for each product" on the ground  
21 that it renders the Interrogatory vague, ambiguous, and unintelligible, as Oracle does not charge  
22 support fees on a product by product basis. Oracle further objects that its investigation into the  
23 circumstances related to defendants' intrusion into and theft from Oracle's systems is not yet  
24 complete, including but not limited to its investigation into customers implicated by SAP's  
25 unlawful conduct. Oracle further objects to the extent that this Interrogatory calls for  
26 information protected by the attorney-client or work product privileges. Oracle further objects to  
27 the extent the Interrogatory purports to require Oracle to create a compilation, abstract, or  
28 summary from business records that Oracle has already produced or will produce.

1 Subject to and without waiver of these objections, Oracle responds as follows:

2 The amounts that Oracle charged each of the Named Customers is reflected in the  
3 customer's license agreements, including the attached schedules and exhibits, and any support  
4 renewal notices sent to the customer, and therefore, pursuant to Fed. R. Civ. Proc. Rule 33(d),  
5 Oracle refers defendants to those documents in Oracle's production.

6 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:**

7 Subject to and without waiving the above objections, and pursuant to the extensive meet  
8 and confer discussions and agreements as described in more detail above, Oracle further  
9 responds that the amounts that Oracle charged each of the customers SAP TN has identified as  
10 its current and former customers is reflected in the customer's license agreements, including the  
11 attached schedules and exhibits, and any support renewal notices sent to the customer, and  
12 therefore, pursuant to Fed. R. Civ. Proc. Rule 33(d), Oracle refers defendants to those documents  
13 in Oracle's production, including ORCL00000001 through ORCL00007590.

14 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:**

15 Oracle further objects to the extent that supplementation would require Oracle to  
16 summarize the documents and testimony provided on this subject; Oracle cannot and will not and  
17 is not required to do so and incorporates all such evidence by reference into this supplemented  
18 answer. Subject to and without waiving the specific and general objections stated above, Oracle  
19 further responds that the amounts that Oracle charged each of the customers SAP TN has  
20 identified as its current and former customers is reflected in the customer's license agreements,  
21 including the attached schedules and exhibits, and any support renewal notices sent to the  
22 customer, and therefore, pursuant to Fed. R. Civ. Proc. Rule 33(d), Oracle refers Defendants to  
23 those documents in Oracle's production, including ORCL00000001 through ORCL00007714,  
24 ORCL00139148 through ORCL00159820, ORCL00176128 through ORCL00180465 and  
25 ORCL00372975 through ORCL00381654. Further, the amounts are reflected in the customer  
26 specific financial reports that the parties have created and exchanged, and therefore, pursuant to  
27 Fed. R. Civ. Proc. Rule 33(d), Oracle refers Defendants to those documents in Oracle's  
28 production. Finally, pursuant to Fed. R. Civ. Proc. Rule 33(d), Oracle refers Defendants to the

1 testimony and numerous documents describing the numerous service programs and pricing terms  
2 charged by Oracle and its predecessors.

3 **INTERROGATORY NO. 7:**

4 For each TN Customer and Named Customer, identify with specificity each item of  
5 Software and Support Materials that the customer is currently, or has been in the past, entitled to  
6 Download and the basis for that entitlement, including any and all Customer Contracts  
7 conferring that right.

8 **RESPONSE TO INTERROGATORY NO. 7:**

9 In addition to its General Objections, Oracle objects that the use of the defined term “TN  
10 Customer” makes this Interrogatory overbroad and unduly burdensome. Oracle further objects  
11 that this Interrogatory seeks information that is not relevant to the litigation, nor likely to lead to  
12 the discovery of admissible evidence. Oracle further objects that its investigation into the  
13 circumstances related to defendants’ intrusion into and theft from Oracle’s systems is not yet  
14 complete; including but not limited to its investigation into customers implicated by defendants’  
15 unlawful conduct. Oracle further objects to the extent that this Interrogatory calls for  
16 information protected by the attorney-client or work product privileges. Oracle further objects to  
17 the extent the Interrogatory purports to require Oracle to create a compilation, abstract, or  
18 summary from business records that Oracle has already produced or will produce.

19 Subject to and without waiver of these objections, Oracle responds as follows:

20 The Software and Support Materials that each Named Customer was entitled to access  
21 and download is reflected in the customer’s license agreements, including the attached schedules  
22 and exhibits, and any support renewal notices sent to the customer, and therefore, pursuant to  
23 Fed. R. Civ. Proc. Rule 33(d), Oracle refers defendants to those documents in Oracle’s  
24 production.

25 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:**

26 Subject to and without waiving the above objections, and pursuant to the extensive meet  
27 and confer discussions and agreements as described in more detail above, Oracle further  
28 responds that the Software and Support Materials that each Named Customer was entitled to

1 access and download is reflected in the customer's license agreements, including the attached  
2 schedules and exhibits, and any support renewal notices sent to the customer, and therefore,  
3 pursuant to Fed. R. Civ. Proc. Rule 33(d), Oracle refers defendants to those documents in  
4 Oracle's production, including ORCL00000001 through ORCL00007590. Oracle's production  
5 of the license agreements pursuant to the meet and confer discussions and agreements is  
6 continuing and Oracle refers Defendants to the these agreements in Oracle's production, and will  
7 identify further such documents in its document production enclosure letters.

8 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:**

9 Oracle further objects to the extent that supplementation would require Oracle to  
10 summarize the documents and testimony provided on this subject; Oracle cannot and will not and  
11 is not required to do so and incorporates all such evidence by reference into this supplemented  
12 answer. Subject to and without waiving the specific and general objections stated above, Oracle  
13 further responds that the Software and Support Materials that each customer was entitled to  
14 access and download is reflected in the customer's license agreements, including the attached  
15 schedules and exhibits, and any support renewal notices sent to the customer, and any contracts  
16 and policies on the customer support website, and therefore, pursuant to Fed. R. Civ. Proc. Rule  
17 33(d), Oracle refers defendants to those documents in Oracle's production, including  
18 ORCL00000001 through ORCL00007714, ORCL00051950 through ORCL00052052,  
19 ORCL00139148 through ORCL00159820, ORCL00176128 through ORCL00180465 and  
20 ORCL00372975 through ORCL00381654, and that as stated above, Oracle has identified  
21 additional productions of such licenses in its document production enclosure letters. Oracle  
22 further responds that JDE Software and Support Materials can be mapped to the customer  
23 licensed software modules under its agreements with Oracle by reference to the system codes  
24 and module names in the downloads of the support materials themselves, the references to the  
25 Software and Support Materials in the Customer Connection databases (include the access to that  
26 system that Oracle provided Defendants) that Oracle has produced, the identification information  
27 in the millions of downloads of the Software and Support Materials themselves on Defendants'  
28 computer systems and servers, the log entries related to the download of the Software and

1 Support Materials, and in the system code mapping spreadsheets attached hereto as Exhibit A.  
2 Oracle further responds that PeopleSoft Software and Support Materials can be mapped to the  
3 customer licensed software modules under its agreements with Oracle by reference to  
4 description, module, software identification information in the millions of downloads of the  
5 Software and Support Materials themselves on Defendants' computer systems and servers, the  
6 log entries related to the download of the Software and Support Materials and the Customer  
7 Connection (include the access to that system that Oracle provided Defendants) and C1  
8 databases that Oracle has produced. Therefore, pursuant to Fed. R. Civ. Proc. Rule 33(d), Oracle  
9 refers defendants to those documents and databases in Oracle's production, including at  
10 ORCL00313462-3 and ORCL0485842. Oracle further responds that customers are not entitled  
11 download any Software and Support Materials from Oracle's password-protected customer  
12 support websites after their maintenance end date.

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20 **INTERROGATORY NO. 9:**

21 Identify by name and business address all companies that provide third-party support for  
22 any Oracle product referred to in the Complaint or at issue in this litigation.

23 **RESPONSE TO INTERROGATORY NO. 9 (AMENDED):**

24 In addition to its General Objections, Oracle objects that the phrase “any Oracle product  
25 referred to in the Complaint or at issue in this litigation” is vague, ambiguous, and overbroad.  
26 The Complaint refers to many Oracle products, including products that are not at issue in this  
27 case, like Fusion, and also products that Defendants blocked discovery on during this litigation,  
28 such as database technology, Siebel applications and other software products like E-Business

1 Suite, Retek and Hyperion. Accordingly, unless and until additional products are made part of  
2 this litigation by order or otherwise, Oracle will interpret “any Oracle product referred to in the  
3 Complaint or at issue in this litigation” as applications and Software and Support Materials for  
4 legacy PeopleSoft and J.D. Edwards enterprise software applications available from Oracle,  
5 including through Customer Connection. Oracle further objects that the phrase “all companies  
6 that provide third-party support” is vague, ambiguous, overbroad, and calls for an unduly  
7 burdensome Response from Oracle. “Third-party support” is not defined and thus Oracle cannot  
8 determine whether the term refers to third-party maintenance providers, like SAP TN, or  
9 includes other entities, which would be overbroad. Oracle will therefore interpret “third-party  
10 support” to refer to entities with business models similar to that of SAP TN. Oracle further  
11 objects that this Interrogatory calls for information equally available to defendants.

12 Subject to and without waiving its objections, Oracle responds that it is currently aware  
13 of the following: SAP TN, Rimini Street, CH2M Hill, Versytec, and netCustomer.

14 **SUPPLEMENTAL AND AMENDED RESPONSE TO INTERROGATORY NO. 9:**

15 Oracle further objects to the extent that supplementation would require Oracle to  
16 summarize the documents and testimony provided on this subject; Oracle cannot and will not and  
17 is not required to do so and incorporates all such evidence by reference into this supplemented  
18 answer. Subject to and without waiving the specific and general objections stated above, and  
19 specifically not including any Oracle partner, Oracle further responds that, while only the third  
20 party can know what it actually provided and when and where, Oracle, based on publicly  
21 available information, *e.g.*, from company websites and press releases, analyst reports and/or  
22 from hearsay information from customers believes that the following companies have at some  
23 point provided some type of independent third party support for some versions of Oracle-owned  
24 applications software: SAP TN, Rimini Street, CH2M Hill, Versytec, Klee and Associates,  
25 Spinnaker. Oracle does not know and cannot comment on whether CedarCrestone or Hewitt &  
26 Associates ever provided any such service. Oracle further responds that the documents and  
27 depositions of Defendants’ employees confirm that TomorrowNow and SAP presented TN as the  
28 only viable independent third party support option during the applicable time period; other