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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'
 OPPOSITION TO PLAINTIFFS'
 MOTION TO AMEND**

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc., Oracle
2 International Corporation and Oracle EMEA Limited (“Plaintiffs”) and Defendants SAP AG,
3 SAP America, Inc. and TomorrowNow, Inc. (“Defendants,” and together with Plaintiffs, the
4 “Parties”) jointly submit this Stipulation to Permit Defendants to File Under Seal Plaintiffs’
5 Documents Supporting Defendants’ Opposition to Plaintiffs’ Motion to Amend.

6 WHEREAS, Plaintiffs filed their Motion to Amend Complaint on July 15, 2009;

7 WHEREAS, Defendants filed their Opposition to Plaintiffs’ Motion to Amend Complaint
8 (“Opposition”) on July 29, 2009, along with the Declaration of Joshua L. Fuchs in Support of
9 Defendants’ Opposition to Plaintiffs’ Motion to Amend (“Fuchs Declaration”) and supporting
10 exhibits;

11 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to
12 Permit Defendants to File Under Seal Plaintiffs’ Documents Supporting Defendants’ Opposition
13 to Plaintiffs’ Motion to Amend;

14 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged
15 confidentiality of the materials put at issue by the Opposition until such time as the Court makes a
16 final ruling as to confidentiality of the relevant subject matter. Specifically, the following
17 documents and portions of documents contain information designated by Plaintiffs as
18 “Confidential Information”:

- 19 • Exhibits C-1 and K-1 to the Fuchs Declaration;
- 20 • Paragraph 18 and portions of paragraph 41 of the Fuchs Declaration; and
- 21 • Portions of page 6, lines 26-28 and portions of page 18, line 26 of the Opposition.

22 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their
23 respective counsel of record, that Defendant be permitted to move for permission to file under
24 seal (1) Exhibits C-1 and K-1 to the Fuchs Declaration, (2) paragraph 18 and portions of
25 paragraph 41 of the Fuchs Declaration and (3) portions of page 6, lines 26-28 and portions of
26 page 18, line 26 of the Opposition. The Parties further agree that Defendants reserve their rights
27 to challenge the confidentiality of the information filed under seal pursuant to this Stipulation.

28 While the Parties agree that the Opposition may be publicly filed, the Parties also agree that the

1 filing shall not be construed as a waiver of any confidentiality designation or other protection
2 with respect to documents, transcripts or other information referred to in, or that serve as the basis
3 for, the allegations or arguments made in it.

4 **IT IS SO STIPULATED.**

5 DATED: July 29, 2009

JONES DAY

7 By: /s/ Tharan Gregory Lanier
8 Tharan Gregory Lanier

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

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

13 DATED: July 29, 2009

BINGHAM McCUTCHEN LLP

15 By: /s/ Geoffrey M. Howard
16 Geoffrey M. Howard

17 Attorneys for Plaintiffs
18 ORACLE USA, INC., ORACLE
INTERNATIONAL CORPORATION, and
19 ORACLE EMEA LIMITED
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