

1 Robert A. Mittelstaedt (SBN 060359)
 Jason McDonell (SBN 115084)
 2 Elaine Wallace (SBN 197882)
 JONES DAY
 3 555 California Street, 26th Floor
 San Francisco, CA 94104
 4 Telephone: (415) 626-3939
 Facsimile: (415) 875-5700
 5 ramittelstaedt@jonesday.com
 jmcdonell@jonesday.com
 6 ewallace@jonesday.com

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

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

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

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

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

Attorneys for Plaintiffs
 Oracle USA, Inc., Oracle International
 Corporation, and Oracle EMEA Limited

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

**STIPULATION TO PERMIT
 DEFENDANTS TO FILE UNDER
 SEAL PLAINTIFFS' INFORMATION
 DISCLOSED IN DEFENDANTS'
 ANSWER AND AFFIRMATIVE
 DEFENSES TO FOURTH AMENDED
 COMPLAINT**

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 Information Disclosed in Defendants’ Answer and Affirmative Defenses to Fourth Amended
6 Complaint (“Answer”).

7 WHEREAS, Defendants filed their Answer on August 26, 2009;

8 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to
9 Permit Defendants to File Under Seal Plaintiffs’ Information Disclosed in Defendants’ Answer
10 and Affirmative Defenses to Fourth Amended Complaint;

11 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged
12 confidentiality of the materials put at issue by the Answer. Specifically, a portion of paragraph
13 13 of the Answer filed and lodged with the Court contains information designated by Plaintiffs as
14 “Confidential Information.” The parties agree that the materials put at issue by the Answer are
15 governed by Fed. R. Evid. 408.

16 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their
17 respective counsel of record, that Defendant be permitted to move for permission to file under
18 seal a portion of paragraph 13 of the Answer. The Parties further agree that Defendants reserve
19 their rights to challenge the confidentiality of the information filed under seal pursuant to this
20 Stipulation. While the Parties agree that portions of the Answer may be publicly filed, the Parties
21 also agree that the filing shall not be construed as a waiver of any confidentiality designation or
22 other protection with respect to documents, transcripts or other information referred to in, or that
23 serve as the basis for, the allegations or arguments made in it.

24 **IT IS SO STIPULATED.**

25
26
27
28

1 DATED: August 26, 2009

JONES DAY

2

3

By: /s/ Tharan Gregory Lanier
Tharan Gregory Lanier

4

5

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

6

7

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.

9

DATED: August 26, 2009

BINGHAM McCUTCHEN LLP

10

11

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

12

13

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

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28