

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

9 DORIAN DALEY (SBN 129049)
 JENNIFER GLOSS (SBN 154227)
 10 500 Oracle Parkway, M/S 5op7
 Redwood City, CA 94070
 11 Telephone: (650) 506-4846
 Facsimile: (650) 506-7114
 12 dorian.daley@oracle.com
 jennifer.gloss@oracle.com
 13

14 Attorneys for Plaintiffs
 Oracle USA, Inc., Oracle International Corporation,
 15 Oracle EMEA Limited, and Siebel Systems, Inc.

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 OAKLAND DIVISION

19 ORACLE USA, INC., *et al.*,
 20 Plaintiffs,
 21 v.
 22 SAP AG, *et al.*,
 Defendants.
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CASE NO. 07-CV-01658 PJH (EDL)
**PLAINTIFFS' ADMINISTRATIVE
 MOTION TO FILE PORTIONS OF
 THE JOINT DISCOVERY
 CONFERENCE STATEMENT
 UNDER SEAL; DECLARATION OF
 BREE HANN IN SUPPORT OF
 ADMINSTRATIVE MOTION**

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 28 Case No. 07-CV-01658 PJH (EDL)

1 **I. INTRODUCTION**

2 Plaintiffs Oracle USA, Inc., Oracle International Corporation, Oracle EMEA Limited and
3 Siebel Systems, Inc. (collectively, “Oracle”), together with Defendants SAP AG, SAP America,
4 Inc., and TomorrowNow, Inc. (collectively, “Defendants,” and with Oracle, the “Parties”),
5 respectfully request an Order sealing portions of Exhibit H to the Parties’ November 10, 2009
6 Joint Discovery Conference Statement (“Statement”). An unredacted version of this exhibit was
7 lodged with the Court on November 12, 2009. This request is made pursuant to Civil Local
8 Rules 7-11 and 79-5 and the Protective Order signed by Judge Martin Jenkins on June 6, 2007.
9 This request is supported by the Parties’ Stipulation to Permit Plaintiffs to File Portions of the
10 Joint Discovery Conference Statement Under Seal, filed concurrently with this Motion.

11 **II. ARGUMENT**

12 Defendants have instructed Oracle to file this request to seal portions of Exhibit H to the
13 Parties’ November 10, 2009 Joint Discovery Conference Statement. Good cause exists for filing
14 the referenced portions of the document under seal, because it contains deposition testimony that
15 was designated by Defendants as “Highly Confidential Information – Attorneys’ Eyes Only”
16 pursuant to the Parties’ Protective Order.

17 Oracle’s request is narrowly tailored, as required by Local Rule 79-5(a), and seeks to
18 protect only the portion of this document that contains Defendants’ allegedly confidential
19 information, until such time as Defendants may submit a declaration in accordance with Civil
20 Local Rule 75-9(d) and the Court makes a final ruling as to the confidentiality of the relevant
21 subject matter. Therefore, good cause supports this request, and the document referenced herein
22 should appropriately be filed under seal.

23 **III. CONCLUSION**

24 For the foregoing reasons, Oracle respectfully requests that the Court order the filing of
25 portions of Exhibit H to the Parties’ November 10, 2009 Joint Discovery Conference Statement
26 under seal. A Proposed Order is submitted with this Motion.

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1 DATED: November 12, 2009

BINGHAM McCUTCHEN LLP

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By: /s/ Bree Hann
Bree Hann
Attorneys for Plaintiffs
Oracle USA, Inc.,
Oracle International Corporation, Oracle EMEA
Limited, and Siebel Systems, Inc.

**DECLARATION OF BREE HANN IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE UNDER SEAL**

I, Bree Hann, declare:

1. I am member of the State Bar of California and counsel at Bingham McCutchen LLP, counsel of record for Plaintiffs Oracle USA, Inc., Oracle International Corporation, Oracle EMEA Limited, and Siebel Systems, Inc. (collectively, "Oracle") in this action. I have personal knowledge of the matters stated in this declaration by virtue of my representation of Oracle in this action. If called and sworn as a witness, I could and would competently testify to such matters.

2. Pursuant to Civil Local Rule 79-5 and the stipulated Protective Order entered on June 6, 2007 in this case (Docket No. 32), I make this Declaration in support of Oracle's Administrative Motion to File Portions of the Joint Discovery Conference Statement Under Seal (the "Motion to Seal").

3. The requested relief is necessary and narrowly tailored to protect the alleged confidentiality of the materials put at issue by the Parties' November 10, 2009 Joint Discovery Conference Statement ("Statement"), until such time as the Court rules on the confidentiality of the relevant subject matter. Specifically, Exhibit H to the Statement contains deposition testimony designated by Defendants as "Highly Confidential Information – Attorneys' Eyes Only" pursuant to the Protective Order entered in this action on June 6, 2007.

4. Pursuant to Civil Local Rule 7-11, a stipulation is included with this Administrative Motion.

5. The following document contains information designated Highly Confidential by Defendants:

- a. Exhibit H to the Statement: A November 3, 2009 letter from Chad Russell to Jason McDonell, containing excerpts of a transcript of the deposition of Scott Trainor, taken on October 13, 2009. The redacted portions of the letter appear at pages 3 and 4.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed
2 in San Francisco, California on November 12, 2009.

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6 By: _____ /s/ Bree Hann
Bree Hann
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