EXHIBIT C

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    SAP AG, SAP AMERICA, INC., and
18 TOMORROWNOW, INC.

19   UNITED STATES DISTRICT COURT

20   NORTHERN DISTRICT OF CALIFORNIA

21   OAKLAND DIVISION

22 ORACLE USA, INC., et al.,   Case No. 07-CV-1658 PJH (EDL)

23   Plaintiffs,   **DEFENDANTS' FOURTH AMENDED
                                        RESPONSES TO REQUESTS 496
24   v.   THROUGH 680 OF PLAINTIFFS'
                                        SECOND SET OF REQUESTS FOR
25 SAP AG, et al.,   ADMISSION TO DEFENDANTS
                                        TOMORROWNOW, INC., SAP AG,
26   Defendants.   AND SAP AMERICA, INC.**

27   **CONFIDENTIAL PURSUANT TO
                                        PROTECTIVE ORDER**
28

DEFENDANTS' 4th AMENDED RESP. TO RQST. 496-680 OF
PLAINTIFFS' 2ND SET OF REQUESTS FOR ADMISSION
Case No. 07-CV-1658 PJH (EDL)

07-CV-1658 PJH (EDL)

1   request, especially because the available documents, data and other information from which the

2   answer, if any, could be derived in response to this request have been produced by Defendants in

3   response to Plaintiffs' other discovery requests and thus any relevant, available information is

4   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

5   foregoing objections and qualifications, Defendants respond as follows:

6   DENIED.

7   **REQUEST FOR ADMISSION NO. 577:**

8   Admit that for the majority of Fixes or Updates listed in Exhibit B, TN identified some set

9   of Customers to whom it would deliver the Fix or Update and determined whether one Fix or

10 Update could be Developed for all such Customers on the release, or whether TN needed to split

11 the Customers on that release into sub-groups (sometimes referred to at TN as "source groups").

12 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 577:**

13   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

14 General Objections noted above. Defendants' response is based solely on Defendant

15 TomorrowNow's knowledge with respect to the information sought in this request because

16 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

17 information provided by Defendant TomorrowNow in this response. Further, Defendants object

18 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

19 it seeks an admission that would be applied to every single component of each fix and update at

20 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

21 burdensome because Defendants' burden associated with responding to this request is

22 substantially similar to the burden for Plaintiffs to obtain the information sought through this

23 request, especially because the available documents, data and other information from which the

24 answer, if any, could be derived in response to this request have been produced by Defendants in

25 response to Plaintiffs' other discovery requests and thus any relevant, available information is

26 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

27 foregoing objections and qualifications, Defendants respond as follows:

28

1   ADMITTED for at least one component in the majority of the listed fixes or updates.

2 **REQUEST FOR ADMISSION NO. 578:**

3   Admit that for some of the Fixes or Updates listed in Exhibit B, TN identified some set of

4 Customers to whom it would deliver the Fix or Update and determined whether one Fix or

5 Update could be Developed for all such Customers on the release, or whether TN needed to split

6 the Customers on that release into sub-groups (sometimes referred to at TN as "source groups").

7 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 578:**

8   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

9 General Objections noted above. Defendants' response is based solely on Defendant

10 TomorrowNow's knowledge with respect to the information sought in this request because

11 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

12 information provided by Defendant TomorrowNow in this response. Further, Defendants object

13 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

14 it seeks an admission that would be applied to every single component of each fix and update at

15 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

16 burdensome because Defendants' burden associated with responding to this request is

17 substantially similar to the burden for Plaintiffs to obtain the information sought through this

18 request, especially because the available documents, data and other information from which the

19 answer, if any, could be derived in response to this request have been produced by Defendants in

20 response to Plaintiffs' other discovery requests and thus any relevant, available information is

21 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

22 foregoing objections and qualifications, Defendants respond as follows:

23   ADMITTED for at least one component in some of the listed fixes or updates.

24 **REQUEST FOR ADMISSION NO. 579:**

25   Admit that for at least one Fix or Update listed in Exhibit B, TN identified some set of

26 Customers to whom it would deliver the Fix or Update and determined whether one Fix or

27 Update could be Developed for all such Customers on the release, or whether TN needed to split

28 the Customers on that release into sub-groups (sometimes referred to at TN as "source groups").

1 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 579:**

2   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

3 General Objections noted above. Defendants' response is based solely on Defendant

4 TomorrowNow's knowledge with respect to the information sought in this request because

5 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

6 information provided by Defendant TomorrowNow in this response. Further, Defendants object

7 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

8 it seeks an admission that would be applied to every single component of each fix and update at

9 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

10 burdensome because Defendants' burden associated with responding to this request is

11 substantially similar to the burden for Plaintiffs to obtain the information sought through this

12 request, especially because the available documents, data and other information from which the

13 answer, if any, could be derived in response to this request have been produced by Defendants in

14 response to Plaintiffs' other discovery requests and thus any relevant, available information is

15 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

16 foregoing objections and qualifications, Defendants respond as follows:

17   ADMITTED for at least one component in at least one of the listed fixes or updates.

18 **REQUEST FOR ADMISSION NO. 580:**

19   Admit that TN's process for determining its "source groups" (as the term is used in

20 Requests Nos. 576-579) always involved in part doing a visual comparison of the Customer Local

21 Environments in the group to identify relevant differences in the codeline.

22 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 580:**

23   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

24 General Objections noted above. Defendants' response is based solely on Defendant

25 TomorrowNow's knowledge with respect to the information sought in this request because

26 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

27 information provided by Defendant TomorrowNow in this response. Moreover, Defendants

28 object to this request on the basis that it is unduly burdensome because Defendants' burden

1   General Objections noted above. Defendants' response is based solely on Defendant

2   TomorrowNow's knowledge with respect to the information sought in this request because

3   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

4   information provided by Defendant TomorrowNow in this response. Further, Defendants object

5   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

6   it seeks an admission that would be applied to every single component of each fix and update at

7   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

8   burdensome because Defendants' burden associated with responding to this request is

9   substantially similar to the burden for Plaintiffs to obtain the information sought through this

10   request, especially because the available documents, data and other information from which the

11   answer, if any, could be derived in response to this request have been produced by Defendants in

12   response to Plaintiffs' other discovery requests and thus any relevant, available information is

13   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

14   foregoing objections and qualifications, Defendants respond as follows:

15   DENIED.

16   **REQUEST FOR ADMISSION NO. 600:**

17   Admit that for the majority of Fixes or Updates listed in Exhibit B, where TN determined

18   that any given release did not require a "source group" division (as the term is used in Requests

19   Nos. 576-579), TN used a Local Environment installed from media originally provided by one

20   Customer to Develop the Fix or Update for all Customers on that release.

21   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 600:**

22   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

23   General Objections noted above. Defendants' response is based solely on Defendant

24   TomorrowNow's knowledge with respect to the information sought in this request because

25   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

26   information provided by Defendant TomorrowNow in this response. Further, Defendants object

27   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

28   it seeks an admission that would be applied to every single component of each fix and update at

1   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

2   burdensome because Defendants' burden associated with responding to this request is

3   substantially similar to the burden for Plaintiffs to obtain the information sought through this

4   request, especially because the available documents, data and other information from which the

5   answer, if any, could be derived in response to this request have been produced by Defendants in

6   response to Plaintiffs' other discovery requests and thus any relevant, available information is

7   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

8   foregoing objections and qualifications, Defendants respond as follows:

9   ADMITTED for at least one component in the majority of the listed fixes or updates.

10 **REQUEST FOR ADMISSION NO. 601:**

11   Admit that for some Fixes or Updates listed in Exhibit B, where TN determined that any

12 given release did not require a "source group" division (as the term is used in Requests Nos.

13 576-579), TN used a Local Environment installed from media provided originally by one

14 Customer to Develop the Fix or Update for all Customers on that release.

15 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 601:**

16   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

17 General Objections noted above. Defendants' response is based solely on Defendant

18 TomorrowNow's knowledge with respect to the information sought in this request because

19 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

20 information provided by Defendant TomorrowNow in this response. Further, Defendants object

21 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

22 it seeks an admission that would be applied to every single component of each fix and update at

23 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

24 burdensome because Defendants' burden associated with responding to this request is

25 substantially similar to the burden for Plaintiffs to obtain the information sought through this

26 request, especially because the available documents, data and other information from which the

27 answer, if any, could be derived in response to this request have been produced by Defendants in

28 response to Plaintiffs' other discovery requests and thus any relevant, available information is

1 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

2 foregoing objections and qualifications, Defendants respond as follows:

3 ADMITTED for at least one component in some of the listed fixes or updates.

4 **REQUEST FOR ADMISSION NO. 602:**

5 Admit that for at least one Fix or Update listed in Exhibit B, where TN determined that

6 any given release did not require a "source group" division (as the term is used in Requests Nos.

7 576-579), TN used a Local Environment installed from media originally provided by one

8 Customer to Develop the Fix or Update for all Customers on that release.

9 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 602:**

10 Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

11 General Objections noted above. Defendants' response is based solely on Defendant

12 TomorrowNow's knowledge with respect to the information sought in this request because

13 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

14 information provided by Defendant TomorrowNow in this response. Further, Defendants object

15 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

16 it seeks an admission that would be applied to every single component of each fix and update at

17 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

18 burdensome because Defendants' burden associated with responding to this request is

19 substantially similar to the burden for Plaintiffs to obtain the information sought through this

20 request, especially because the available documents, data and other information from which the

21 answer, if any, could be derived in response to this request have been produced by Defendants in

22 response to Plaintiffs' other discovery requests and thus any relevant, available information is

23 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

24 foregoing objections and qualifications, Defendants respond as follows:

25 ADMITTED for at least one component in at least one of the listed fixes or updates.

26 **REQUEST FOR ADMISSION NO. 603:**

27 Admit that for each Fix or Update listed in Exhibit B, TN unit tested the Fix Objects

28 Developed for each "source group" (as the term is used in Requests Nos. 576-579) in the same

1   Local Environment used to Develop the Fix or Update.

2   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 603:**

3   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

4   General Objections noted above. Defendants' response is based solely on Defendant

5   TomorrowNow's knowledge with respect to the information sought in this request because

6   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

7   information provided by Defendant TomorrowNow in this response. Further, Defendants object

8   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

9   it seeks an admission that would be applied to every single component of each fix and update at

10 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

11 burdensome because Defendants' burden associated with responding to this request is

12 substantially similar to the burden for Plaintiffs to obtain the information sought through this

13 request, especially because the available documents, data and other information from which the

14 answer, if any, could be derived in response to this request have been produced by Defendants in

15 response to Plaintiffs' other discovery requests and thus any relevant, available information is

16 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

17 foregoing objections and qualifications, Defendants respond as follows:

18   DENIED.

19 **REQUEST FOR ADMISSION NO. 604:**

20   Admit that for the majority of Fixes or Updates listed in Exhibit B, TN unit tested the Fix

21 Objects Developed for each "source group" (as the term is used in Requests Nos. 576-579) in the

22 same Local Environment used to Develop the Fix or Update.

23 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 604:**

24   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

25 General Objections noted above. Defendants' response is based solely on Defendant

26 TomorrowNow's knowledge with respect to the information sought in this request because

27 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

28 information provided by Defendant TomorrowNow in this response. Further, Defendants object

1   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

2   it seeks an admission that would be applied to every single component of each fix and update at

3   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

4   burdensome because Defendants' burden associated with responding to this request is

5   substantially similar to the burden for Plaintiffs to obtain the information sought through this

6   request, especially because the available documents, data and other information from which the

7   answer, if any, could be derived in response to this request have been produced by Defendants in

8   response to Plaintiffs' other discovery requests and thus any relevant, available information is

9   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

10 foregoing objections and qualifications, Defendants respond as follows:

11   ADMITTED for at least one component in the majority of the listed fixes or updates.

12 **REQUEST FOR ADMISSION NO. 605:**

13   Admit that for some Fixes or Updates listed in Exhibit B, TN unit tested the Fix Objects

14 Developed for each "source group" (as the term is used in Requests Nos. 576-579) in the same

15 Local Environment used to Develop the Fix or Update.

16 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 605:**

17   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

18 General Objections noted above. Defendants' response is based solely on Defendant

19 TomorrowNow's knowledge with respect to the information sought in this request because

20 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

21 information provided by Defendant TomorrowNow in this response. Further, Defendants object

22 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

23 it seeks an admission that would be applied to every single component of each fix and update at

24 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

25 burdensome because Defendants' burden associated with responding to this request is

26 substantially similar to the burden for Plaintiffs to obtain the information sought through this

27 request, especially because the available documents, data and other information from which the

28 answer, if any, could be derived in response to this request have been produced by Defendants in

1   response to Plaintiffs' other discovery requests and thus any relevant, available information is

2   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

3   foregoing objections and qualifications, Defendants respond as follows:

4   ADMITTED for at least one component in some of the listed fixes or updates.

5   **REQUEST FOR ADMISSION NO. 606:**

6   Admit that for at least one Fix or Update listed in Exhibit B, TN unit tested the Fix

7   Objects Developed for each "source group" (as the term is used in Requests Nos. 576-579) in the

8   same Local Environment used to Develop the Fix or Update.

9   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 606:**

10   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

11   General Objections noted above. Defendants' response is based solely on Defendant

12   TomorrowNow's knowledge with respect to the information sought in this request because

13   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

14   information provided by Defendant TomorrowNow in this response. Further, Defendants object

15   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

16   it seeks an admission that would be applied to every single component of each fix and update at

17   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

18   burdensome because Defendants' burden associated with responding to this request is

19   substantially similar to the burden for Plaintiffs to obtain the information sought through this

20   request, especially because the available documents, data and other information from which the

21   answer, if any, could be derived in response to this request have been produced by Defendants in

22   response to Plaintiffs' other discovery requests and thus any relevant, available information is

23   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

24   foregoing objections and qualifications, Defendants respond as follows:

25   ADMITTED for at least one component in at least one of the listed fixes or updates.

26   **REQUEST FOR ADMISSION NO. 607:**

27   Admit that for each Fix or Update listed in Exhibit B, TN saved the Fix Objects

28   Developed for each "source group" (as the term is used in Requests Nos. 576-579) to some

1 central location (typically referred to at TN as the "development staging area" or "staging area").

2 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 607:**

3 Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

4 General Objections noted above. Defendants' response is based solely on Defendant

5 TomorrowNow's knowledge with respect to the information sought in this request because

6 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

7 information provided by Defendant TomorrowNow in this response. Further, Defendants object

8 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

9 it seeks an admission that would be applied to every single component of each fix and update at

10 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

11 burdensome because Defendants' burden associated with responding to this request is

12 substantially similar to the burden for Plaintiffs to obtain the information sought through this

13 request, especially because the available documents, data and other information from which the

14 answer, if any, could be derived in response to this request have been produced by Defendants in

15 response to Plaintiffs' other discovery requests and thus any relevant, available information is

16 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

17 foregoing objections and qualifications, Defendants respond as follows:

18 DENIED.

19 **REQUEST FOR ADMISSION NO. 608:**

20 Admit that for the majority of Fixes or Updates listed in Exhibit B, TN saved the Fix

21 Objects Developed for each "source group" (as the term is used in Requests Nos. 576-579) to

22 some central location (typically referred to at TN as the "development staging area" or "staging

23 area").

24 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 608:**

25 Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

26 General Objections noted above. Defendants' response is based solely on Defendant

27 TomorrowNow's knowledge with respect to the information sought in this request because

28 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

1   information provided by Defendant TomorrowNow in this response. Further, Defendants object

2   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

3   it seeks an admission that would be applied to every single component of each fix and update at

4   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

5   burdensome because Defendants' burden associated with responding to this request is

6   substantially similar to the burden for Plaintiffs to obtain the information sought through this

7   request, especially because the available documents, data and other information from which the

8   answer, if any, could be derived in response to this request have been produced by Defendants in

9   response to Plaintiffs' other discovery requests and thus any relevant, available information is

10   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

11   foregoing objections and qualifications, Defendants respond as follows:

12   ADMITTED for at least one component in the majority of the listed fixes or updates.

13   **REQUEST FOR ADMISSION NO. 609:**

14   Admit that for some Fixes or Updates listed in Exhibit B, TN saved the Fix Objects

15   Developed for each "source group" (as the term is used in Requests Nos. 576-579) to some

16   central location (typically referred to at TN as the "development staging area" or "staging area").

17   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 609:**

18   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

19   General Objections noted above. Defendants' response is based solely on Defendant

20   TomorrowNow's knowledge with respect to the information sought in this request because

21   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

22   information provided by Defendant TomorrowNow in this response. Further, Defendants object

23   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

24   it seeks an admission that would be applied to every single component of each fix and update at

25   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

26   burdensome because Defendants' burden associated with responding to this request is

27   substantially similar to the burden for Plaintiffs to obtain the information sought through this

28   request, especially because the available documents, data and other information from which the

1 answer, if any, could be derived in response to this request have been produced by Defendants in

2 response to Plaintiffs' other discovery requests and thus any relevant, available information is

3 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

4 foregoing objections and qualifications, Defendants respond as follows:

5 ADMITTED for at least one component in some of the listed fixes or updates.

6 **REQUEST FOR ADMISSION NO. 610:**

7 Admit that for at least one Fix or Update listed in Exhibit B, TN saved the Fix Objects

8 Developed for each "source group" (as the term is used in Requests Nos. 576-579) to some

9 central location (typically referred to at TN as the "development staging area" or "staging area").

10 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 610:**

11 Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

12 General Objections noted above. Defendants' response is based solely on Defendant

13 TomorrowNow's knowledge with respect to the information sought in this request because

14 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

15 information provided by Defendant TomorrowNow in this response. Further, Defendants object

16 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

17 it seeks an admission that would be applied to every single component of each fix and update at

18 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

19 burdensome because Defendants' burden associated with responding to this request is

20 substantially similar to the burden for Plaintiffs to obtain the information sought through this

21 request, especially because the available documents, data and other information from which the

22 answer, if any, could be derived in response to this request have been produced by Defendants in

23 response to Plaintiffs' other discovery requests and thus any relevant, available information is

24 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

25 foregoing objections and qualifications, Defendants respond as follows:

26 ADMITTED for at least one component in at least one of the listed fixes or updates.

27 **REQUEST FOR ADMISSION NO. 611:**

28 Admit that for each Fix or Update listed in Exhibit B, TN tested the Fix or Update (in a

1   process typically known as "individual fix testing" or "QA testing"), including by Copying the

2   Fix Objects saved in the central development staging area to a Local Environment within the

3   applicable "source group" (as the term is used in Requests Nos. 576-579), to test the functionality

4   and stability of the Fix or Update and that it produced the expected results.

5   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 611:**

6   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

7   General Objections noted above. Defendants' response is based solely on Defendant

8   TomorrowNow's knowledge with respect to the information sought in this request because

9   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

10   information provided by Defendant TomorrowNow in this response. Further, Defendants object

11   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

12   it seeks an admission that would be applied to every single component of each fix and update at

13   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

14   burdensome because Defendants' burden associated with responding to this request is

15   substantially similar to the burden for Plaintiffs to obtain the information sought through this

16   request, especially because the available documents, data and other information from which the

17   answer, if any, could be derived in response to this request have been produced by Defendants in

18   response to Plaintiffs' other discovery requests and thus any relevant, available information is

19   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

20   foregoing objections and qualifications, Defendants respond as follows:

21   DENIED.

22   **REQUEST FOR ADMISSION NO. 612:**

23   Admit that for the majority of Fixes or Updates listed in Exhibit B, TN tested the Fix or

24   Update (in a process typically known as "individual fix testing" or "QA testing"), including by

25   copying the Fix Objects saved in the central development staging area to a Local Environment

26   within the applicable "source group" (as the term is used in Requests Nos. 576-579), to test the

27   functionality and stability of the Fix or Update and that it produced the expected results.

28

1   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 612:**

2   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

3   General Objections noted above. Defendants' response is based solely on Defendant

4   TomorrowNow's knowledge with respect to the information sought in this request because

5   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

6   information provided by Defendant TomorrowNow in this response. Further, Defendants object

7   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

8   it seeks an admission that would be applied to every single component of each fix and update at

9   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

10   burdensome because Defendants' burden associated with responding to this request is

11   substantially similar to the burden for Plaintiffs to obtain the information sought through this

12   request, especially because the available documents, data and other information from which the

13   answer, if any, could be derived in response to this request have been produced by Defendants in

14   response to Plaintiffs' other discovery requests and thus any relevant, available information is

15   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

16   foregoing objections and qualifications, Defendants respond as follows:

17   ADMITTED for at least one component in the majority of the listed fixes or updates.

18   **REQUEST FOR ADMISSION NO. 613:**

19   Admit that for some Fixes or Updates listed in Exhibit B, TN tested the Fix or Update (in

20   a process typically known as "individual fix testing" or "QA testing"), including by copying the

21   Fix Objects saved in the central development staging area to a Local Environment within the

22   applicable "source group" (as the term is used in Requests Nos. 576-579), to test the functionality

23   and stability of the Fix or Update and that it produced the expected results.

24   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 613:**

25   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

26   General Objections noted above. Defendants' response is based solely on Defendant

27   TomorrowNow's knowledge with respect to the information sought in this request because

28   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

1   information provided by Defendant TomorrowNow in this response. Further, Defendants object

2   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

3   it seeks an admission that would be applied to every single component of each fix and update at

4   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

5   burdensome because Defendants' burden associated with responding to this request is

6   substantially similar to the burden for Plaintiffs to obtain the information sought through this

7   request, especially because the available documents, data and other information from which the

8   answer, if any, could be derived in response to this request have been produced by Defendants in

9   response to Plaintiffs' other discovery requests and thus any relevant, available information is

10 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

11 foregoing objections and qualifications, Defendants respond as follows:

12   ADMITTED for at least one component in some of the listed fixes or updates.

13 **REQUEST FOR ADMISSION NO. 614:**

14   Admit that for at least one Fix or Update listed in Exhibit B, TN tested the Fix or Update

15 (in a process typically known as "individual fix testing" or "QA testing"), including by copying

16 the Fix Objects saved in the central development staging area to a Local Environment within the

17 applicable "source group" (as the term is used in Requests Nos. 576-579), to test the functionality

18 and stability of the Fix or Update and that it produced the expected results.

19 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 614:**

20   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

21 General Objections noted above. Defendants' response is based solely on Defendant

22 TomorrowNow's knowledge with respect to the information sought in this request because

23 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

24 information provided by Defendant TomorrowNow in this response. Further, Defendants object

25 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

26 it seeks an admission that would be applied to every single component of each fix and update at

27 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

28 burdensome because Defendants' burden associated with responding to this request is

1   substantially similar to the burden for Plaintiffs to obtain the information sought through this

2   request, especially because the available documents, data and other information from which the

3   answer, if any, could be derived in response to this request have been produced by Defendants in

4   response to Plaintiffs' other discovery requests and thus any relevant, available information is

5   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

6   foregoing objections and qualifications, Defendants respond as follows:

7   ADMITTED for at least one component in at least one of the listed fixes or updates.

8   **REQUEST FOR ADMISSION NO. 615:**

9   Admit that the Local Environment used in the "individual fix testing" or "QA testing"

10 process described in Requests Nos. 611-614 always utilized a Local Environment different from

11 the Local Environment TN used to Develop the Fix Objects being tested.

12 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 615:**

13   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

14 General Objections noted above. Defendants' response is based solely on Defendant

15 TomorrowNow's knowledge with respect to the information sought in this request because

16 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

17 information provided by Defendant TomorrowNow in this response. Further, Defendants object

18 to the extent that this request is compound, overly broad and unduly burdensome to the extent that

19 it seeks an admission that would be applied to every single component of each fix and update at

20 issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

21 burdensome because Defendants' burden associated with responding to this request is

22 substantially similar to the burden for Plaintiffs to obtain the information sought through this

23 request, especially because the available documents, data and other information from which the

24 answer, if any, could be derived in response to this request have been produced by Defendants in

25 response to Plaintiffs' other discovery requests and thus any relevant, available information is

26 now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

27 foregoing objections and qualifications, Defendants respond as follows:

28   DENIED.

1   Environments that SAP TN built from software obtained from Customers other than at least one

2   Customer who received the Fix Object.

3   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 666:**

4   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

5   General Objections noted above. Defendants' response is based solely on Defendant

6   TomorrowNow's knowledge with respect to the information sought in this request because

7   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

8   information provided by Defendant TomorrowNow in this response. Moreover, Defendants

9   object to this request on the basis that it is unduly burdensome because Defendants' burden

10   associated with responding to this request is substantially similar to the burden for Plaintiffs to

11   obtain the information sought through this request, especially because the available documents,

12   data and other information from which the answer, if any, could be derived in response to this

13   request have been produced by Defendants in response to Plaintiffs' other discovery requests and

14   thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

15   Defendants. Subject to and without waiving the foregoing objections and qualifications,

16   Defendants respond as follows:

17   ADMITTED for the vast majority.

18   **REQUEST FOR ADMISSION NO. 667:**

19   Admit that for each Update listed in the right-hand column of Exhibit A, TN used a Local

20   Environment with no Customer-specific identifier in its name (e.g., HR751CSS) to Develop at

21   least one Fix Object that SAP TN then delivered to more than one Customer.

22   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 667:**

23   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

24   General Objections noted above. Defendants' response is based solely on Defendant

25   TomorrowNow's knowledge with respect to the information sought in this request because

26   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

27   information provided by Defendant TomorrowNow in this response. Further, Defendants object

28   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

1   it seeks an admission that would be applied to every single component of each fix and update at

2   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

3   burdensome because Defendants' burden associated with responding to this request is

4   substantially similar to the burden for Plaintiffs to obtain the information sought through this

5   request, especially because the available documents, data and other information from which the

6   answer, if any, could be derived in response to this request have been produced by Defendants in

7   response to Plaintiffs' other discovery requests and thus any relevant, available information is

8   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

9   foregoing objections and qualifications, Defendants respond as follows:

10   ADMITTED for at least one component in the vast majority of the listed updates.

11   **REQUEST FOR ADMISSION NO. 668:**

12   Admit that for each Update listed in the right-hand column of Exhibit A, TN used a Local

13   Environment with no Customer-specific identifier in its name (e.g., HR751CSS) to test at least

14   one Fix Object that SAP TN then delivered to more than one Customer.

15   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 668:**

16   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

17   General Objections noted above. Defendants' response is based solely on Defendant

18   TomorrowNow's knowledge with respect to the information sought in this request because

19   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

20   information provided by Defendant TomorrowNow in this response. Further, Defendants object

21   to the extent that this request is compound, overly broad and unduly burdensome to the extent that

22   it seeks an admission that would be applied to every single component of each fix and update at

23   issue in this request. Moreover, Defendants object to this request on the basis that it is unduly

24   burdensome because Defendants' burden associated with responding to this request is

25   substantially similar to the burden for Plaintiffs to obtain the information sought through this

26   request, especially because the available documents, data and other information from which the

27   answer, if any, could be derived in response to this request have been produced by Defendants in

28   response to Plaintiffs' other discovery requests and thus any relevant, available information is

DEFENDANTS' 4th AMENDED RESP. TO RQST. 496-680 OF
PLAINTIFFS' 2ND SET OF REQUESTS FOR ADMISSION
Case No. 07-CV-1658 PJH (EDL)

130

1   now as equally accessible to Plaintiffs as it is to Defendants. Subject to and without waiving the

2   foregoing objections and qualifications, Defendants respond as follows:

3   ADMITTED for at least one component in the vast majority of the listed updates.

4   **REQUEST FOR ADMISSION NO. 669:**

5   Admit that for each Fix listed in Exhibit B which included a DAT file, Copies of at least

6   one DAT file were delivered to more than one Customer as part of the Fix.

7   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 669:**

8   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

9   General Objections noted above. Defendants' response is based solely on Defendant

10 TomorrowNow's knowledge with respect to the information sought in this request because

11 Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

12 information provided by Defendant TomorrowNow in this response. Moreover, Defendants

13 object to this request on the basis that it is unduly burdensome because Defendants' burden

14 associated with responding to this request is substantially similar to the burden for Plaintiffs to

15 obtain the information sought through this request, especially because the available documents,

16 data and other information from which the answer, if any, could be derived in response to this

17 request have been produced by Defendants in response to Plaintiffs' other discovery requests and

18 thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

19 Defendants. Subject to and without waiving the foregoing objections and qualifications,

20 Defendants respond as follows:

21   ADMITTED for the vast majority.

22 **REQUEST FOR ADMISSION NO. 670:**

23   Admit that for each Fix listed in Exhibit B which included a COBOL file, at least one

24 COBOL file from one Local Environment was modified by SAP TN and Copied and delivered to

25 more than one Customer as part of the Fix.

26 **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 670:**

27   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

28 General Objections noted above. Defendants' response is based solely on Defendant

1   **AMENDED RESPONSE TO REQUEST FOR ADMISSION NO. 680:**

2   Defendants incorporate by reference, as if fully set forth herein, all of Defendants'

3   General Objections noted above. Defendants' response is based solely on Defendant

4   TomorrowNow's knowledge with respect to the information sought in this request because

5   Defendants SAP AG and SAP America have no additional knowledge separate and apart from the

6   information provided by Defendant TomorrowNow in this response. Moreover, Defendants

7   object to this request on the basis that it is unduly burdensome because Defendants' burden

8   associated with responding to this request is substantially similar to the burden for Plaintiffs to

9   obtain the information sought through this request, especially because the available documents,

10   data and other information from which the answer, if any, could be derived in response to this

11   request have been produced by Defendants in response to Plaintiffs' other discovery requests and

12   thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

13   Defendants. Subject to and without waiving the foregoing objections and qualifications,

14   Defendants respond as follows:

15   ADMITTED for the vast majority.

16

17   Dated: February 22, 2009   JONES DAY

18

19   By: */s/ Scott W. Cowan*
                                                     Scott W. Cowan
20
                                                 Counsel for Defendants
21   SAP AG, SAP AMERICA, INC., and
                                                 TOMORROWNOW, INC.
22

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PROOF OF SERVICE

I, Laurie Paige Burns, declare:

I am a citizen of the United States and employed in San Francisco County, California. I

am over the age of eighteen years and not a party to the within-entitled action. My business

address is 555 California Street, 26th Floor, San Francisco, California 94104. On February 22,

2010, I served a copy of the attached document(s):

**DEFENDANTS' FOURTH AMENDED RESPONSES TO REQUESTS 496
THROUGH 680 OF PLAINTIFFS' SECOND SET OF REQUESTS FOR
ADMISSION TO DEFENDANTS TOMORROWNOW, INC., SAP AG,
AND SAP AMERICA, INC.**

☐　　by transmitting via facsimile the document(s) listed above to the fax number(s) set
　　　forth below on this date before 5:00 p.m.

☒　　by placing the document(s) listed above in a sealed envelope with postage thereon
　　　fully prepaid, in the United States mail at San Francisco, California addressed as
　　　set forth below.

☐　　by personally delivering the document(s) listed above to the person(s) at the
　　　address(es) set forth below.

☒　　by transmitting via e-mail or electronic transmission the document(s) listed above
　　　to the person(s) at the e-mail address(es) set forth below.

Donn Pickett, Esq.
Geoffrey M. Howard, Esq.
Holly A. House, Esq.
Zachary J. Alinder, Esq.
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holly.house@bingham.com
zachary.alinder@bingham.com
bree.hann@bingham.com

Executed on February 22, 2010, at San Francisco, California.

By: _____
　　　　Laurie Paige Burns