

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 jlfuchs@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 OAKLAND 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, Oracle EMEA Limited, and
 Siebel Systems, Inc.

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

**STIPULATION TO PERMIT
 DEFENDANTS TO FILE UNDER
 SEAL PLAINTIFFS' DOCUMENTS
 SUPPORTING DEFENDANTS'
 CROSS MOTION FOR PARTIAL
 SUMMARY JUDGMENT AND
 OPPOSITION TO PLAINTIFFS'
 MOTION FOR PARTIAL SUMMARY
 JUDGMENT**

STIPULATION IN SUPPORT OF DEFENDANTS'
 ADMINISTRATIVE MOTION
 Case No. 07-CV-1658 PJH (EDL)

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

8 WHEREAS, Defendants filed Defendants’ Cross Motion and Opposition, along with the
9 Declaration of Tharan Gregory Lanier in Support of Defendants’ Cross Motion and Opposition
10 (“Lanier Declaration”) and supporting exhibits, on March 31, 2010;

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

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

- 19 • The following portions of Exhibit 14 to the Lanier Declaration: 41:11-24;
- 20 • The following portions of Exhibit 19 to the Lanier Declaration: 11:24-12:1;
- 21 • The following portions of Exhibit 20 to the Lanier Declaration: 42:10-43:3; and
- 22 • The following portions of the Cross Motion and Opposition: portions of i:22-23, 11:4-
23 5, 15:4, 16:11-14, 16:27-28, 17:2-4, and 17:11-13.

24 Additionally, the following portion of a document filed and lodged with the Court contains
25 information designated by Plaintiffs as “Confidential Information”:

26 _____
27 ¹ As Plaintiffs note in their own moving papers, Oracle contends that Oracle’s recent
28 acquisition of Sun Microsystems, Inc. has resulted in certain limited changes to Oracle’s
corporate structure, including that Oracle America, Inc. has assumed all of plaintiff Oracle USA,
Inc.’s rights and obligations.

1 • The following portions of Exhibit 20 to the Lanier Declaration: 42:7-9.

2 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their
3 respective counsel of record, that Defendants be permitted to move for permission to file under
4 seal portions of the Cross Motion and Opposition, as well as portions of declarations and exhibits
5 in support thereof, as described above. The Parties further agree that Defendants reserve their
6 rights to challenge the confidentiality of the information filed under seal pursuant to this
7 Stipulation. While the Parties agree that portions of the Cross Motion and Opposition may be
8 publicly filed, the Parties also agree that the filing shall not be construed as a waiver of any
9 confidentiality designation or other protection with respect to documents, transcripts, or other
10 information referred to in, or that serve as the basis for, the allegations or arguments made in it.

11 **IT IS SO STIPULATED.**

12 DATED: March 31, 2010

JONES DAY

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By: /s/ Tharan Gregory Lanier
Tharan Gregory Lanier

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

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

20

DATED: March 31, 2010

BINGHAM McCUTCHEN LLP

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

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

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