

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 BOIES, SCHILLER & FLEXNER LLP
 DAVID BOIES (Admitted *Pro Hac Vice*)
 10 333 Main Street
 Armonk, NY 10504
 11 Telephone: (914) 749-8200
 Facsimile: (914) 749-8300
 12 dboies@bsflp.com
 STEVEN C. HOLTZMAN (SBN 144177)
 13 1999 Harrison St., Suite 900
 Oakland, CA 94612
 14 Telephone: (510) 874-1000
 Facsimile: (510) 874-1460
 15 sholtzman@bsflp.com

16 DORIAN DALEY (SBN 129049)
 JENNIFER GLOSS (SBN 154227)
 17 500 Oracle Parkway, M/S 5op7
 Redwood City, CA 94070
 18 Telephone: (650) 506-4846
 Facsimile: (650) 506-7114
 19 dorian.daley@oracle.com
 20 jennifer.gloss@oracle.com

21 Attorneys for Plaintiffs
 Oracle USA, Inc. *et al.*

22 UNITED STATES DISTRICT COURT
 23 NORTHERN DISTRICT OF CALIFORNIA
 24 OAKLAND DIVISION

24 ORACLE USA, INC., *et al.*,
 25 Plaintiffs,
 26 v.
 27 SAP AG, *et al.*,
 28 Defendants.

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

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

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

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

CASE NO. 07-CV-01658 PJH (EDL)

**STIPULATION TO PERMIT
 PLAINTIFFS TO FILE UNDER SEAL
 INFORMATION SUPPORTING
 PLAINTIFFS' DAUBERT MOTIONS,
 OPPOSITIONS TO DEFENDANTS'
 MOTIONS *IN LIMINE* AND 17 U.S.C. §
 410(C) MOTION**

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc., 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 Plaintiffs to File Under
5 Seal Information Supporting Plaintiffs’ *Daubert* Motions, Oppositions to Defendants’ Motions *in*
6 *Limine*, and 17 U.S.C. § 410(c) Motion.

7 WHEREAS, on August 19, 2010, Plaintiffs filed their *Daubert* Motions,
8 Oppositions to Defendants’ Motions *in Limine* and 17 U.S.C. § 410(c) Motion, including (1)
9 portions of Exhibit A to the Declaration of Holly A. House in Support of Plaintiffs’ Motion No.
10 1: To Exclude Testimony of Defendants’ Expert Stephen Clarke (“House Declaration”); (2) the
11 Declaration of Daniel S. Levy Ph.D. in Support of Plaintiffs’ Motion No. 1: To Exclude
12 Testimony of Defendants’ Expert Stephen Clarke (“Levy Declaration”) and Exhibits 1-7 thereto;
13 (3) portions of Exhibit D and Exhibits N, P, Q, R and T to the Declaration of Chad Russell
14 Declaration in Support of Plaintiffs’ Opposition to Defendants’ Motions *in Limine* (“Russell
15 Declaration”); and, (4) Exhibits A-D and F-H to the Declaration of John A. Polito in Support of
16 Plaintiffs’ Motion Pursuant to 17 U.S.C. § 410(c) (“Polito Declaration”).

17 WHEREAS, Plaintiffs have filed an Administrative Motion to Permit Plaintiffs to
18 File Under Seal Information Supporting Plaintiffs’ *Daubert* Motions, Oppositions to Defendants’
19 Motions *in Limine* and 17 U.S.C. § 410(c) Motion (“Administrative Motion”), in part at
20 Defendants’ request.

21 WHEREAS the requested relief is necessary and narrowly tailored to protect the
22 alleged confidentiality of the materials put at issue by Plaintiffs’ *Daubert* Motions, Oppositions
23 to Defendants’ Motions *in Limine* and 17 U.S.C. § 410(c) Motion until such time as the Court
24 makes a final ruling as to confidentiality of the items requested to be sealed. Specifically, the
25 following materials contain information designated by the Parties as “Confidential” or “Highly
26 Confidential Information — Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order:

27 **Defendants’ Information to be Filed Under Seal:**

- 28 • Portions of Exhibit A to the House Declaration at pages 51, 126 and 244-247;

1 DATED: August 19, 2010

JONES DAY

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ Tharan Gregory Lanier
Tharan Gregory Lanier
Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.