

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.

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

BINGHAM McCUTCHEM LLP
 DONN P. PICKETT (SBN 72257)
 GEOFFREY M. HOWARD (SBN 157468)
 HOLLY A. HOUSE (SBN 136045)
 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

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., *et al.*

20 UNITED STATES DISTRICT COURT
 21 NORTHERN DISTRICT OF CALIFORNIA
 22 OAKLAND DIVISION

23 ORACLE USA, INC., et al.,

24 Plaintiffs,

25 v.

26 SAP AG, et al.,

27 Defendants.
 28

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

**STIPULATION TO PERMIT
 DEFENDANTS TO FILE UNDER
 SEAL PLAINTIFFS' DOCUMENTS
 IN SUPPORT OF DEFENDANTS'
 DAUBERT MOTIONS AND
 OPPOSITIONS TO PLAINTIFFS'
 MOTIONS IN LIMINE**

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 Defendants to File Under
5 Seal Plaintiffs’ Documents in Support of Defendants’ *Daubert* Motions and Oppositions to
6 Plaintiffs’ Motions in Limine.

7 WHEREAS, Defendants filed on August 19, 2010 (1) Defendants’ Motion to Exclude
8 Expert Testimony of Paul K. Meyer, (2) Exhibits 1, 3, 5, 6, and 20 to the Declaration of Elaine
9 Wallace in Support of Defendants’ Motion to Exclude Expert Testimony of Paul K. Meyer
10 (“Wallace Decl.”), (3) Defendants’ Oppositions to Plaintiffs’ Motions in Limine, and (4) Exhibits
11 13, 21, 22, 23, and 31 to the Declaration of Tharan Gregory Lanier in Support of Defendants’
12 Oppositions to Plaintiffs’ Motions in Limine (“Lanier Decl.”);

13 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to
14 Permit Defendants to File Under Seal Plaintiffs’ Documents in Support of Defendants’ *Daubert*
15 Motions and Oppositions to Plaintiffs’ Motions in Limine;

16 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged
17 confidentiality of the material put at issue by Defendants’ Motion to Exclude Expert Testimony
18 of Paul K. Meyer and Defendants’ Oppositions to Plaintiffs’ Motions in Limine until such time as
19 the Court makes a final ruling as to confidentiality of the relevant subject matter. Specifically,
20 the following documents and portions of documents contain information designated by Plaintiffs
21 as “Highly Confidential - Attorneys’ Eyes Only” or “Confidential Information” pursuant to the
22 Stipulated Protective Order in this case:

- 23 • Portions of Defendants’ Motion to Exclude Expert Testimony of Paul K. Meyer:
24 portions of 4:14-15 and 10:19-12;
- 25 • Portions of Exhibit 1 to the Wallace Decl.;
- 26 • Portions of Exhibit 3 to the Wallace Decl.;
- 27 • Exhibit 5 to the Wallace Decl.;
- 28 • Exhibit 6 to the Wallace Decl.;

- 1 • Portions of Exhibit 20 to the Wallace Decl.;
- 2 • Portions of Defendants' Oppositions to Plaintiffs' Motions in Limine: portions of
- 3 19:16-17;
- 4 • Portions of Exhibit 13 to the Lanier Decl.;
- 5 • Portions of Exhibit 21 to the Lanier Decl.;
- 6 • Portions of Exhibit 22 to the Lanier Decl.;
- 7 • Portions of Exhibit 23 to the Lanier Decl.; and
- 8 • Exhibit 31 to the Lanier Decl.

9 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their
10 respective counsel of record, that Defendants be permitted to move for permission to file under
11 seal (1) portions of Defendants' Motion to Exclude Expert Testimony of Paul K. Meyer, (2)
12 portions of Exhibits 1, 3, 5, 6, and 20 to the Wallace Decl., (3) portions of Defendants'
13 Oppositions to Plaintiffs' Motions in Limine, and (4) portions of Exhibits 13, 21, 22, 23, and 31
14 to the Lanier Decl., as described above. The Parties further agree that Defendants reserve their
15 rights to challenge the confidentiality of the information filed under seal pursuant to this
16 Stipulation. While the Parties agree that Defendants' concurrently filed *Daubert* Motions,
17 Oppositions to Plaintiffs' Motions in Limine, and exhibits filed in support thereof may be
18 publicly filed, the Parties also agree that the filing shall not be construed as a waiver of any
19 confidentiality designation or other protection with respect to documents, transcripts, or other
20 information referred to in, or that serve as the basis for, the allegations or arguments made in
21 them.

22 **IT IS SO STIPULATED.**

1
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

DATED: August 19, 2010

JONES DAY

By: /s/ Tharan Gregory Lanier
Tharan Gregory Lanier

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

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

DATED: August 19, 2010

BINGHAM McCUTCHEN LLP

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

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