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

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

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 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 REPLY IN SUPPORT OF
 PLAINTIFFS' MOTION NO. 1: TO
 EXCLUDE TESTIMONY OF DEFENDANTS'
 EXPERT STEPHEN CLARKE**

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc., Oracle
2 International Corporation and Siebel Systems, Inc. (“Plaintiffs”) and Defendants SAP AG, SAP
3 America, Inc., and TomorrowNow, Inc. (“Defendants,” and together with Plaintiffs, the
4 “Parties”) jointly submit this Stipulation to Permit Plaintiffs to File Under Seal Information
5 Supporting Reply in Support of Plaintiffs’ Motion No. 1: To Exclude Testimony of Defendants’
6 Expert Stephen Clarke.

7 WHEREAS, on September 16, 2010, Plaintiffs filed their Reply Memorandum in Support
8 of Motion No. 1: To Exclude Testimony of Defendants’ Expert Stephen Clarke (“Plaintiffs’
9 Reply”), along with the Declaration of Daniel S. Levy, Ph.D. in Support of Plaintiffs’ Reply
10 (“Levy Declaration”);

11 WHEREAS, Plaintiffs have filed an Administrative Motion to Permit Plaintiffs to File
12 Under Seal Information Supporting Plaintiffs’ Reply (“Administrative Motion”); and,

13 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged
14 confidentiality of the materials put at issue by Plaintiffs’ Reply until such time as the Court
15 makes a final ruling as to confidentiality of the items requested to be sealed. Specifically, the
16 following materials contain information designated by Plaintiffs as “Highly Confidential
17 Information — Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order:

- 18 • Portions of the Levy Declaration at Figures 1, 2 and A.1.

19 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their
20 respective counsel of record, that Plaintiffs are permitted to move for permission to file under
21 seal portions of the Levy Declaration as described above. The Parties further agree that
22 Defendants reserve their rights to challenge the confidentiality of the information filed under seal
23 pursuant to this Stipulation. While the Parties agree that portions of the document described
24 above may be publicly filed, the Parties also agree that the filing shall not be construed as a
25 waiver of any confidentiality designation or other protection with respect to the documents,
26 transcripts, or other information referred to in, or that serve as the basis for, the allegations or
27 arguments made in it.

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IT IS SO STIPULATED.

DATED: September 16, 2010

BINGHAM McCUTCHEN LLP

By: /s/ Zachary J. Alinder
Zachary J. Alinder
Attorneys for Plaintiffs
Oracle USA, Inc., Oracle International Corp.,
and Siebel Systems, 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: September 16, 2010

JONES DAY

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