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18 TOMORROWNOW, INC.

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

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

23 ORACLE USA, INC., et al.,

24 Plaintiffs,

25 v.

26 SAP AG, et al.,

27 Defendants.

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

**STIPULATION AND [~~PROPOSED~~] ORDER
REGARDING DEFENDANTS' MOTION FOR
APPROVAL OF SECURITY**

Date: June 29, 2011
Time: 9:00 a.m.
Courtroom: 3, 3rd Floor
Judge: Hon. Phyllis J. Hamilton

STIPULATION RE MOTION FOR APPROVAL OF SECURITY

1
2 Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (“Defendants”) and
3 Oracle USA, Inc., Oracle International Corporation and Siebel Systems, Inc. (“Oracle,” and
4 together with Defendants, the “Parties”) request entry of an order approving a supersedeas bond
5 in the amount of \$1,325,033,547.00 as appropriate security to stay execution of the final
6 judgment entered on February 3, 2011 (ECF No. 1036), pending disposition of post-judgment
7 motions and, if necessary, appeal. Defendants reviewed the revisions proposed by Oracle as
8 further explained in its Opposition (ECF No. 1072) and have had an opportunity to confer with
9 the sureties insuring the bond regarding Oracle’s suggested revisions. Defendants have now
10 accepted the revisions proposed by Oracle and proposed one minor addition. The Parties met and
11 conferred further, and with these revisions, have reached an agreement on a stipulated bond form,
12 which is attached as Exhibit A. Accordingly, the Parties jointly request that the Court approve
13 this revised bond form and grant Defendants 10 business days to obtain the necessary signatures
14 and file a signed version of this bond form with the Court for final approval. A hearing on the
15 Defendants’ Motion is no longer required.

16
17 **IT IS SO STIPULATED.**

18 Dated: June 8, 2011

JONES DAY

19
20 By: /s/ Tharan Gregory Lanier
21 Tharan Gregory Lanier

22 Counsel for Defendants
23 SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.

24 In accordance with General Order No. 45, Rule X, the above signatory attests that
25 concurrence in the filing of this document has been obtained from the signatory below.
26
27
28

1 Dated: June 8, 2011

BINGHAM McCUTCHEN LLP

2
3 By: /s/ Geoffrey M. Howard
4 Geoffrey M. Howard

5 Attorneys for Plaintiffs
6 ORACLE USA, INC., ORACLE
7 INTERNATIONAL CORPORATION, and
8 SIEBEL SYSTEMS, INC.
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 6/9/11

By: _____

Hon. Phyllis J. Hamilton
United States District Judge



EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE Northern District of California,

ORACLE USA, Inc., et al,)	
Plaintiffs,)	
v.)	Civil Action No. 07-CV-01658PJH(EDL)
)	
SAP AG, et al,)	
Defendants)	

SUPERSEDEAS BOND

KNOW ALL BY THESE PRESENTS, That SAP America, Inc., as principal and on behalf of defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively, "Defendants"), and Continental Casualty Company and U.S. Specialty Insurance Company and American Contractors Indemnity Company and Travelers Casualty and Surety Company of America and XL Specialty Insurance Company and XL Reinsurance America, Inc. and Greenwich Insurance Company and Fidelity and Deposit Company of Maryland and Zurich American Insurance Company and Liberty Mutual Insurance Company, as sureties, (hereinafter collectively and individually called "Surety") are held and firmly bound unto Oracle International Corporation, its successors and assignees ("Oracle"), in the total aggregate sum of One Billion Three Hundred Twenty Five Million Thirty Three Thousand Five Hundred Forty Seven AND 00/100THS -----(\$1,325,033,547.00) DOLLARS, lawful money of the United States to be paid to Oracle for which payment well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors and assigns, severally by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, judgment was entered on February 3, 2011 in favor of Oracle and against Defendants in the amount of \$1,314,751,797.00,

WHEREAS, Defendants filed post-judgment motions, and if denied, will appeal the judgment.

NOW, THEREFORE, the condition of this obligation is such that this obligation shall be void if Defendants prosecute their post-judgment motions and/or any subsequent appeals to the Ninth Circuit Court of Appeals and/or the United States Supreme Court and either (a) Defendants satisfy said judgment in full together with costs, interest and damages for delay if for any reason the motions are not granted and the appeal is dismissed or if the judgment is affirmed; or (b) Defendants satisfy in full such modification of the judgment and such costs, interest and damages as the United States District Court for the Northern District of California, the Ninth Circuit Court of Appeals and/or the United States Supreme Court may adjudge and award. Otherwise then this obligation shall remain in full force and effect.

PROVIDED, HOWEVER, THAT:

1. The maximum amount of liability for each Surety shall be limited to the following amounts:

Continental Casualty Company, a Illinois corporation, for One Hundred Fifty Million and 00/100 Dollars (\$150,000,000.00) - (.113) percent)

U.S. Specialty Insurance Company, a Texas corporation, for Forty Million and 00/100 Dollars (\$40,000,000.00) - (.03) percent

American Contractors Indemnity Company, a California corporation, for Five Million and 00/100 Dollars (\$5,000,000.00) - (.0037) percent

Travelers Casualty and Surety Company of America, a Connecticut corporation, for One Hundred Million and 00/100 Dollars (\$100,000,000.00) - (.0755) percent

XL Specialty Insurance Company, a Delaware corporation, for Fifteen Million and 00/100 Dollars (\$15,000,000.00) - (.0113) percent

XL Reinsurance America, Inc., a New York corporation, for One Hundred Fifty Five Million and 00/100 Dollars (\$155,000,000.00) - (.117) percent

Greenwich Insurance Company, a Delaware corporation, for Thirty Million and 00/100 Dollars (\$30,000,000.00) - (.023) percent

Fidelity and Deposit Company of Maryland, a Maryland corporation, for Ten Million and 00/100 Dollars (\$ 10,000,000.00) - (.0075) percent

Zurich American Insurance Company, a New York corporation, for Five Hundred Seventy Million Thirty Three Thousand Five Hundred Forty Seven and 00/100 Dollars (\$ 570,033,547.00) - (.43) percent

Liberty Mutual Insurance Company, a Massachusetts corporation, for Two Hundred Fifty Million and 00/100 Dollars (\$250,000,000.00) - (.189) percent

2. It is expressly provided that the obligation of the Surety shall be several and not joint, and no Surety shall be responsible in an amount greater than their respective maximum amount of liability set forth above in paragraph 1. Nor shall any Surety's liability be increased or affected hereunder in any way whatsoever as a result of the performance or non-performance by any other Surety of such other Surety's obligation under this Bond.

3. Any claim for payment by Oracle arising under this bond shall be allocated to the percentage of each Surety's limit of liability relative to the aggregate amount of this bond.

4. In no event shall the total obligation of the Surety hereunder exceed the amount herein stated, regardless of the number of years this bond is in force.

5. This Bond may be executed in any number of counterparts, and by the different parties hereto on separate counterparts, each of which counterpart shall be an original, but all of which shall together constitute one and the same instrument.

6. Pursuant to Rule 8(b) of the Federal Rules of Appellate Procedure and Rule 65.1 of the Federal Rules of Procedure, see Surety List above, each surety, submits itself to the jurisdiction of the District Court.

IT IS FURTHER AGREED by each Surety that it meets the qualification requirements of Civil L.R. 65.1-1(b) and that, in the event that the Surety defaults or refuses to obey any court order requiring payment, the Court may, upon notice to the Surety of not less than ten business days, proceed summarily and render judgment against the Surety in accordance with its obligation and award execution thereon.

SIGNED AND SEALED this ___ day of ___, 2011.

Principal: SAP America, Inc.

By: _____

SURETY

BOND NUMBERS

Continental Casualty Company

By: _____
Wayne G. McVaugh, Attorney-In-Fact

Bond Number: 929513010

U.S. Specialty Insurance Company

By: _____
Wayne G. McVaugh, Attorney-In-Fact

Bond Number: 1000831469

American Contractors Indemnity Company

By: _____
Wayne G. McVaugh, Attorney-in-Fact

Bond Number: 1000831469
(same as US Spec Ins Co)

Travelers Casualty and Surety Company of America

By: _____
Wayne G. McVaugh, Attorney-in-Fact

Bond Number: 105596398

XL Specialty Insurance Company

By: _____
Wayne G. McVaugh, Attorney-in-Fact

Bond Number: SUR7401260

XL Reinsurance America, Inc.

By: _____
Wayne G. McVaugh, Attorney-in-Fact

Bond Number: SUR7401260
(same as XL Spec Ins Co.)

SURETY

Greenwich Insurance Company

By: _____
Wayne G. McVaugh, Attorney-in-Fact

Fidelity and Deposit Company of Maryland

By: _____
Wayne G. McVaugh, Attorney-in-Fact

Zurich American Insurance Company

By: _____
Wayne G. McVaugh, Attorney-in-Fact

Liberty Mutual Insurance Company

By: _____
Wayne G. McVaugh, Attorney-in-Fact

BOND NUMBERS

Bond Number: SUR7401260
(same as XL Spec Ins Co.)

Bond Number: CGB09036098

Bond Number: CGB09036098
(same as F&D Co of MD)

Bond Number: 019032909

Written notice of claim on this surety bond shall be sent to the following:

Continental Casualty Company
c/o CNA Surety Companies
VP Surety Claims
333 S. Wabash Ave, 41st Fl.
Chicago, IL 60604

HCC Insurance Holdings Inc. – *(for us. Spec. Ins. Co. and Amer Contractors Indem Co.)*
Surety Claims Dept.
601 S. Figueroa, 16th Fl.
Los Angeles, CA 90017

Travelers Casualty and Surety Company of America
Commercial Surety Claims
One Tower Square
Hartford, CT 06183

Zurich Commercial Surety Bond Claims - *(for Fidelity & Deposit Co MD and Zurich Amer Ins Co)*
Attn: Dennis Hayden
1400 Avenue Lane
PO Box 968036
Schaumburg, IL 60196

Surety Claim Dept.
Liberty Mutual Surety
450 Plymouth Rd, Suite 400
Plymouth Meeting, PA 19462

XL Specialty Insurance Company – *(also for XL Reins Amer, Inc .and Greenwich Ins Co)*
Attn: Surety Claim Dept.
300 East Lombard St., Ste 1470
Baltimore, MD 21202