

# **EXHIBIT 1**

**Reply Declaration of Jason McDonell ISO Motion to Compel Third Party Support Provided by Oracle's Partners**



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PeopleSoft

From implementation to post-production support, CedarCrestone is dedicated to delivering the highest caliber of solutions to meet your every PeopleSoft Enterprise need. What truly differentiates us is the combination of our strong, long-lasting relationship with Oracle; the skill level of our consultants; and our comprehensive set of consulting and managed services designed to be customizable to fit the scope of your project and ensure success. You have invested in the world-class PeopleSoft Enterprise solution, CedarCrestone will make sure you get the greatest value from your investment.

CedarCrestone's services all utilize the Propel Methodology that embodies four distinct guiding principles:

- A strong methodology is imperative to realize **client success**; without it, the project's outcome is incalculable.
- The project approach is **results oriented**, ensuring that deliverables meet expectations and provide momentum for the next project phase.
- Key business decisions are made using a **process driven** approach, providing assurance that critical business processes are the factors that drive major decisions.
- To achieve a win/win result, the project approach must closely align with the client's objectives; where differences lie, the methodology must offer **flexibility**.

The key differentiator of CedarCrestone's Propel Methodology is its "process driven" approach, which is evident in the Preview and subsequent fit/gap or prototyping sessions. The Preview accelerates fact-finding to enable decision making earlier in the project, while the facilitated fit/gap or Interactive Design and Prototyping (IDP) sessions focus on the client's business requirements.

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The CedarCrestone Propel Methodology graphic highlights five

project phases, with robust project management being omnipresent. CedarCrestone maintains a continuous focus on the client, which is clearly indicated by placing the client at the hub.

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**PeopleSoft Managed Services – Host**

The maturity of PeopleSoft 9, the imminent release of Oracle's Fusion applications and our "World Class" hosting solution are causing an unprecedented number of PeopleSoft clients to select CedarCrestone as their strategic partner for enterprise application hosting.

CedarCrestone Host differentiators:

- Includes all hosting infrastructure, applications, operations and service desk into a tightly integrated solution
- Backed by the Best Hosting SLA in the business
- Employee experience, focus and commitment
- Continual hosting investments and improvements
- Firm financial stability and viability
- Integrated hosting and industry consulting services
- Commitment to Oracle Product Line "Trusted Advisor"
- Largest PeopleSoft Hosting Provider in the Space
- Unparalleled experience with complex, high volume/user systems

We invite you to explore the twelve key Hosting value propositions-found on the right-supported by a repository of subject matter experts, client testimonials, case studies, and white papers. Whether you're newly implementing PeopleSoft, looking to transition from your current provider or part of a spinout/spinoff CedarCrestone hosting can meet your needs.

**Host Propositions**

Fully Committed Partnership	
Pioneers of PeopleSoft Hosting	
Industry Value Propositions for Hosting	
Best-in-the-business Service Level Agreement	
Core vs. Context	
World-class IT Infrastructure	
Expedited PeopleSoft ROI	
High-quality Offshore Resources	
Service-Oriented Architecture (SOA) Suite	
Securing Your Critical Applications	
Around-the-Clock Support	
Lowering the Total Cost of Application Ownership	

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**PeopleSoft Managed Services – Maintain**

CedarCrestone Managed Services (CMS) Maintain offers clients a solution for providing ongoing tax and regulatory support for unsupported PeopleSoft applications. Tax and Regulatory support is often packaged with application break/fix support to arrive at a solution able to "Maintain" clients on unsupported versions for extended periods of time.

- Payroll and HR Tax and Regulatory Support
  - PeopleSoft tax/regulatory updates
  - HRMS tax & regulatory support
    - EEO-1 Reporting, ERISA, Federal/state/local tax, garnishments, OSHA reporting, etc.
    - Everything required to keep you governmentally compliant
- Financials regulatory support
  - 1099 updates and Asset depreciation regulatory changes
  - Newly legislated reporting requirements
- Student Administration regulatory support
  - Financial Aid regulatory updates (FISAP, ISIRs, Pell Grants, Hope Scholarship, Student Loans)
  - 1099 updates for Student Financials
  - Student Records reporting (Consolidated Statistics, IPEDS, SEVIS)
- Application break/fix support
  - Troubleshooting for system issues reported by the client
  - Can include support for customizations
  - May require development of custom code fix (limited to authorized/allowable object development and customizations)

**Regs/Legs Support**

Support for Oracle|PeopleSoft Campus Solutions CS/HRSA is expected to end in August 2008. There are no current CS/HRSA 8.0 clients requiring Tax and Regs support, but this is rapidly changing as CS/HRSA 8.0 client look at the horizon and the need to stay current with Regs and Legs. To learn more click [here](#).

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**PeopleSoft Managed Services – Manage**

CedarCrestone's Application Management "Manage" offering provides the application administration and support benefits found in CMS Host, while allowing you, as the customer, to retain full ownership, operation and hosting of the underlying computer assets.

PeopleSoft Manage services include the following:

- **Database Administration** – Inclusive of performance tuning, migrations, database security, patches and upgrades, backups, refreshes and monitoring
- **Application Support** – Application troubleshooting, patch and fix application, development and enhancement support
- **Upgrades and Services Packs** – Tools, Service Pack and Application Upgrades; keeps your systems updated to the latest service and maintenance pack releases
- **Object Management** – Provides administration and management for Trees, Set-up Tables, User Security, and Process Scheduler
- **Operations Support** – Provides capacity planning, system tuning, migration and archiving, backups, network and platform administration
- **Systems Management** – Remote monitoring and management of server, network and database platforms using state of the art systems management solutions
- **Service Desk Support** – Provides Service Desk Support through our Remedy Service Desk during Prime Hours of Operation, technical and functional support with full Service Desk and trouble ticket management system

*Over the past three months, CedarCrestone has provided a consultant to come in a couple of times to help us out with challenging, Oracle Database/PeopleSoft production issues. Each time, CedarCrestone has been able to pin point the problem and quickly get us back on our feet with minimal or no downtime. CedarCrestone has also helped us with our support processes to avoid similar problems in the future! Some of the additional services CedarCrestone has provided are to perform some tuning and cleanup of our system and processes to increase our productivity and efficiency.*



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#### PeopleSoft Managed Services – Upgrade Lab

##### Allows Internal Resources to Focus on Core Activities

The CedarCrestone Managed Services (CMS) Lab accelerates Client upgrade processes while reducing total Client resource commitments and costs. CMS Lab provides an off-site, lab based upgrade option for completing PeopleSoft applications upgrades. By selecting the CMS Lab as your lab-based upgrade solution you will receive the following benefits:

- More rapid upgrade, no waiting on infrastructure and hardware or technical resource availability
- Lower total cost due to scaled and streamlined upgrade processes, procedures and personnel only feasible in a lab setting
- Deliver more immediate upgrade value by focusing your resources on expanded system functionality and enhancements
- Ability to package technical upgrade services, development and consulting into a complete upgrade solution
- Client has remote access to environment for prototyping, configuration and testing activities
- Client does not have to procure additional infrastructure which may be necessary to execute the upgrade
- Client will be assigned one consultant team throughout the entire upgrade

Through utilizing the upgrade lab as a strategic upgrade resource, Clients get more value out of their systems while committing fewer internal resources to the upgrade process. For those customers preferring to keep all application environments in-house, CMS provides a remote upgrade option that provides remote access to technical upgraders that securely access and upgrade Client hosted applications.

#### Client Successes

- [Central Washington University](#)
- [City of Ontario, CA](#)
- [City of San Jose, CA](#)

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#### PeopleSoft Managed Services – Develop Your Virtual Developer

CedarCrestone Managed Services (CMS) offers flexible development services with delivery packages customized to meet each Client's development needs.

Development occurs as a normal function of daily application support, during implementations, projects and upgrades. CMS Develop is the ideal solution for clients requiring point-in-time development support or development support over an extended period and can include:

- Application modifications
- Development of new objects
- Report and interface development
- PeopleCode
- Application Engine
- SQR
- Query Development

CMS Develop can be leveraged during any development effort, ensuring the right mix of remote onshore or offshore developers to support your needs. CMS Develop provides Clients with lower cost development options than is possible through traditional onsite development models (based on the elimination of travel costs, lower hourly rates and JIT resources), while providing the same level of development expertise and quality guarantees.

#### Client Successes

- [George Weston Bakeries](#)
- [Kurt Salmon Associates](#)

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#### PeopleSoft Technology Integration Services

CedarCrestone's Technology Integration Services (TIS) practice offers streamlined services for assessing, installing, implementing, administering, integrating and upgrading today's PeopleSoft Internet Architecture (PIA). Further, as the path to Fusion and SOA unfolds, TIS offers guidance to clients as we being to adopt the technology components and underlying framework of the next generation of applications.

The TIS team is 100% staffed by senior PeopleSoft professionals with highly technical PeopleSoft skill sets, including: installation, administration, integration and development technologies, and upgrades, as well as underlining technologies which support the PIA including database, middleware, web services, UNIX, Windows and NT operating systems.

When engaging with CedarCrestone's TIS consultants, it is clear that the success of the client is the main objective. Their focus is to make technology an enabler of success by ensuring that technology-induced obstacles do not hinder project goals. In addition, TIS consultants are dedicated to partnering with our client's technical staff to share, explain, coach, and mentor them on technical methodologies and best-practices.

- [Database Administration](#)
- [Installation and Configuration](#)
- [Integration Technologies and Development](#)
- [Technology Assessment](#)
- [Upgrades](#)
- [PIA Administration](#)

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**PeopleSoft Training Services**

CedarCrestone offers training services to help our clients understand the new or modified business processes that result from a PeopleSoft implementation or upgrade. Our approach is to provide clients with customized, process-oriented training. Our training consultants tailor the training to the organization and the day-to-day operations for users of the new or upgraded system.

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- [CedarCrestone Training Services](#)
- [got UPK? Services](#)



## CedarCrestone Contracted to Perform Remote Maintenance to George Weston Bakeries PeopleSoft Enterprise HCM and Financials Applications



### About George Weston Bakeries

George Weston Bakeries is the largest food processing and distributing companies in the world, specifically focusing on dairy and baking industries. George Weston Bakeries owns the rights to such brands as Entenmanns, Thomas, Boboli, Stroehmann, Brownberry, Arnold, Freihofers, and Dutch Country. Headquartered in New York, George Weston has 15,000 employees and generated revenue of 1.1 billion in 2005.

### The Challenge

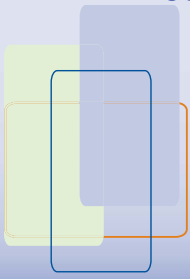
It is vital that all companies be on the same IT system, Stroehman was not on the George Weston Bakeries PeopleSoft Enterprise system. CedarCrestone was contracted to do a four month conversion for Stroehman's human resources and financials applications to PeopleSoft Human Resources 8.3 and Financials 7.5. During conversion the client started facing employee retention issues and lost a number of IT employees by the end of the project.

### The Solution

Due to the loss of employees, CedarCrestone was then contracted to a three year renewable remote managed services project. CedarCrestone connects to their system remotely to apply patches and fixes to their HR, benefits, benefits administration, payroll, general ledger, accounts payable, purchasing, asset management, and projects applications.

CedarCrestone handles various troubleshooting and development requests for them. It's an ongoing support effort with requests ranging from software customizations to functional process troubleshooting and resolution.

<b>Industry</b>	Commercial
<b>Modules</b>	PeopleSoft HCM 8.3 Benefits, Benefits Administration, Payroll; PeopleSoft Financials 7.5 General Ledger, Accounts Payable, Purchasing, Asset Management, and Projects
<b>Project</b>	Remote Support for PeopleSoft Enterprise HCM 8.3 and Financials 7.5 applications
<b>Client since</b>	2005



# Client Success Story

## INTEGRIS HEALTH

Integris Health optimizes human resource, financial, and materials management business processes with CedarCrestone services and technology from PeopleSoft and Workscope

### ABOUT INTEGRIS HEALTH

Integris Health is the largest Oklahoma owned health system with hospitals, rehabilitation centers, physician clinics, mental health facilities, independent living centers and home health agencies throughout the state. As a not-for-profit corporation, it was organized under the laws of the State of Oklahoma for charitable, scientific and education purposes and to specifically engage in the delivery of healthcare services and related activities.

*“We needed to respond more quickly to employee, manager and applicant requests and find a way to handle the increasing transaction rates efficiently,”* explains Akbar Sultan, corporate director of the HR Service Center at Integris.

### THE CHALLENGE

#### Legacy, paper-based systems lack speed, flexibility and efficiency

With over 8,000 employees, Integris recognized that its paper-based human resource service delivery operations could not keep pace with the organization’s growth. In response to the growing demand for HR services and increased levels of administrative transactions, executives explored technologies that would centralize the HR Service Center. The organization needed a flexible and efficient system that would allow for continued growth, utilize modern integrated self service applications via the Web and telephone, and support improved employee service.

### PHASE ONE:

#### Development and implementation of management and employee self service using Workscope technology

A careful evaluation of available workforce technology solutions led Integris to select Workscope’s Edify Electronic Workforce (EWF)



<b>Industry</b>	Healthcare
<b>Modules</b>	Human Resources and Financials (General Ledger, Accounts Payable, Asset Management, Payroll, and Budgeting Systems)
<b>Services</b>	Implementation, Upgrade, Continued Development of HCM system
<b>Environment</b>	PeopleSoft Financials and HCM are configured on two separate enterprise servers, each configured to support the app server, file server, and web server
<b>Client since</b>	2001

*“As we continue to partner with Cedar-Crestone to develop value added solutions, I am pleased with their flexibility and customer relationship management in making things happen. I would highly recommend them for your business automation challenges.”*

**Akbar Sultan**  
Corporate Director HR/Payroll Service  
Center Integris Health, Inc.



development tool to centralize its HR service center. In addition to legacy systems, Integris was running on PeopleSoft Human Resources and Payroll, as well as BeneSoft Benefits Administration. Workscope was chosen for its ability to integrate data over multiple platforms and deliver it to a wide variety of outputs.

As the exclusive development and implementation services partner, CedarCrestone designed and delivered a solution that significantly reduced turnaround time and enabled HR staff to focus energy on more strategic functions. The new solution handles over 3,000 phone calls to the HR department per month, via automation. This has reduced in half the calls answered by a live person. The employment staff workload was also reduced and allowed for a faster and more efficient turnaround time on incoming requests.

**PHASE TWO:**  
**Material management and mobile supply chain integration**

Demonstrating satisfaction with CedarCrestone, Integris once again chose CedarCrestone to update its 14-year old legacy purchasing and inventory software system. The project scope was to add PeopleSoft Purchasing and Inventory to the existing PeopleSoft Financial suite that included General Ledger, Accounts Payable, Asset Management, and Budgeting systems. The new installation required an interface with a BCX Cart Management System being implemented by Integris at the same time.

The implementation resulted in immediate reduction of Electronic Data Interchange (EDI) by leveraging Integris's GPO vendor relationships. The reduction of EDI is a result of a transition to XML applications.

**PHASE THREE:**  
**Upgrade to PeopleSoft Human Resources and Financials 8.4**

CedarCrestone was again selected as the exclusive implementation partner for two upgrade projects including PeopleSoft Human Resources and Payroll 7.5 to version 8.3 and PeopleSoft Financials 7.5 to 8.4.

After defining Integris's business rules and system requirements, consultants identified specific modules, interfaces and custom reports to be implemented. System modifications were also created for those Integris business rules and practices that did not map directly to PeopleSoft. The process also replaced several extensive HR customizations that were created with the initial implementation of PeopleSoft ten years earlier.

**Other project highlights:**

- Transfer of purchasing applications from EDI to XML to maximize GPO
- Implementation of Payroll/Accounts Payable interface

**PHASE FOUR:**  
**Continuous HCM service delivery improvements**

The significant benefits derived from the installation of the new HR technology encouraged Integris to add more functionality for its employees. CedarCrestone continues to develop modules that use Workscope tools and PeopleSoft's Component Interface to further streamline Integris's HCM system:

- **MultiSource Assessment** – replacement of a manual process with a Web-based 360 degree review process. This solution is available to employees and managers via the Intranet.



- **Total Rewards Statement** – updated twice per year, this solution allows Integris employees access to a variety of personalized information, including projected pension benefits, retirement savings plan and Social Security Benefits at retirement age as well as current balances
- **Paid Personal Leave cashout** – allows employees to initiate the sale of unused paid personal leave hours within Integris's guidelines

The Workspace Manager's Toolkit enabled streamlining HR operations by allowing over 500 managers to directly enter changes such as the following:

- On-time or future dated Merit increases
- Voluntary terminations
- Employee licensure information

Through online, real-time departmental status reports and biweekly email reports, the system also alerts managers about action items:

- Employee performance reviews either currently due or due within 45 days
- Mandatory Education compliance
- Open job requisitions
- License renewal deadlines

Additional streamlined business applications include the following:

- **Job Voucher** – will allow managers to perform all job changes through manager self service including transfers, pay increases, etc.
- **Turnover Report** – provides real-time, quarterly trends and detailed analysis by department
- **Merit Distribution Report** – highlights for area mgt the average percentage of increases by director, rolled up for VP's
- **Job Requisitions** – initiates and tracks all job requisitions from a manager's desktop

The response from Integris managers has been positive and is spurring requests for more automated HR solutions. CedarCrestone will be assisting Integris with their HCM 8.9 upgrade project.

## CedarCrestone: Turning Software into Solutions

Analyze • Strategize • Design • Implement • Deploy • Upgrade • Manage • Optimize • Host

contact@CedarCrestone.com  
866.827.3786

### About CedarCrestone

CedarCrestone has designed and implemented technology solutions delivering the benefits of efficiency, accuracy, cost reduction, and employee and patient satisfaction for healthcare organizations throughout North America. CedarCrestone provides PeopleSoft consulting, hosting, and managed services for the deployment, management, and optimization of Human Capital Management (HCM), Financial Management (FMS), Campus Solutions (CS), and Strategy & Analysis.



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#### PeopleSoft Managed Services

CedarCrestone Managed Services (CMS) has been in the business of delivering expert Oracle|PeopleSoft Outsourcing services since 1999. CMS is headquartered in Alpharetta, GA and utilizes two world class, geographically dispersed data center facilities within its operations. Staff competencies are maintained across all PeopleSoft technical and functional disciplines and employees are physically located within the U.S., Canada, Europe, and India. This allows CMS to integrate best-in-class capabilities across the entire PeopleSoft value chain to provide a growing base of over 100 customers with highly efficient, economical managed services solutions. In 2003 CedarCrestone opened its Hyderabad, [India](#) office which allowed CMS operations to function Globally and on a true 24X7 basis. While U.S. resources are sleeping, personnel are working.

CMS provides world class managed services designed specifically for PeopleSoft [Higher Education](#), [Commercial](#), and [Public Sector](#) clients of all sizes. Each client is unique and receives a tailored package of managed and consulting services to best meet its needs, to learn more about those please visit the links on the right.

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# **EXHIBIT 2**

**Reply Declaration of Jason McDonell ISO Motion to Compel Third Party Support Provided by Oracle's Partners**

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January 15, 2009

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
MAGISTRATE JUDGE ELIZABETH D. LAPORTE

ORACLE CORPORATION, a Delaware )	Case No. C07-1658
Corporation; ORACLE, USA, INC., )	(PJH)
a Colorado corporation; and )	
ORACLE INTERNATIONAL )	
CORPORATION, a California )	
corporation, )	
)	
Plaintiffs, )	
)	
vs. )	FURTHER DISCOVERY
)	CONFERENCE
)	
SAP AG, a German corporation; )	
SAP AMERICA, INC., a Delaware )	
corporation; TOMORROWNOW, INC., )	
a Texas corporation; and DOES )	
1-50, Inclusive, )	
)	
Defendants. )	
)	

January 8, 2009

TRANSCRIPT OF AUDIO RECORDING OF DISCOVERY CONFERENCE

TRANSCRIBED BY: FREDDIE REPPOND

Merrill Legal Solutions  
(800) 869-9132

DISCOVERY CONFERENCE

January 15, 2009

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1           So the motion is we get the chart of accounts,  
2           which is a list of the types of accounts they have, but  
3           we don't want all 80,000 but the general ledger  
4           accounts at this time. But we do want that basic  
5           blueprint of what the accounts are. Then we will look  
6           at them. Then we'll make a follow-up request for the  
7           general ledger information that we think is most  
8           pertinent for the type of analysis that needs to be  
9           done.

10           THE COURT: Okay.

11           MS. HOUSE: We are happy to -- I don't want to  
12           take more of your time. We will be ready to oppose  
13           this. It's another way I think is going to be akin to  
14           just it's a needle-in-a-haystack type of request --

15           THE COURT: Well, they are absolutely entitled  
16           to some profit data if you're going to go after lost  
17           profits.

18           MS. HOUSE: And they have been given it.  
19           They've been given it the way Oracle keeps it, which is  
20           exactly the same way SAP keeps it, which is that profit  
21           margins are rolled up by lines of business. They're  
22           not kept on a product-by-product basis.

23           THE COURT: Well, we'll just have to see, but  
24           I mean I would err on the side of giving them what they  
25           think they need to have their expert analyze the

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1 profits, not what Oracle thinks they need. And as long  
2 as it's not completely disproportionate. But, you  
3 know, you're seeking millions and millions of dollars  
4 for them and you're not giving up on the lost-profit  
5 theory and they have the right to challenge it. So  
6 exactly how you keep it and how complicated -- I don't  
7 know why you wouldn't at least give them the chart of  
8 accounts if it's true that that's essentially a list of  
9 what you've got. I don't see that -- that's not very  
10 burdensome.

11 MS. HOUSE: Hopefully we can convince you when  
12 we --

13 THE COURT: Well, I don't know. But, again, I  
14 would urge you to -- you might as well disclose what  
15 you've got in terms of chart of accounts, because it  
16 would be much more concrete for me to look at that and  
17 say, Well, why should you get this and not that if they  
18 think they should get this and you say, no, they  
19 shouldn't. Why?

20 MS. HOUSE: The charts of accounts -- I think  
21 this came up before [inaudible]

22 THE COURT: I don't remember.

23 MS. HOUSE: Charts of accounts are extremely  
24 voluminous. There's different charts of account for  
25 different Oracle entities. They have -- from the

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January 15, 2009

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1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN FRANCISCO )

3 CERTIFICATE OF REPORTER/TRANSCRIBER

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5 licensed Notary Public, do hereby certify that the above  
6 referenced recording was transcribed by me and that this  
7 transcript is a true record of that recording.

8 IN WITNESS WHEREOF I have hereunto set my hand  
9 on this 16th day of January, 2009.

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FREDDIE REPPOND

# **EXHIBIT 3**

**Reply Declaration of Jason McDonell ISO Motion to Compel Third Party Support Provided by Oracle's Partners**

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16 and Oracle International Corporation

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20  
21 ORACLE CORPORATION, a Delaware  
corporation, ORACLE USA, INC., a Colorado  
22 corporation, and ORACLE INTERNATIONAL  
CORPORATION, a California corporation,

23 Plaintiffs,

24 v.

25 SAP AG, a German corporation, SAP  
AMERICA, INC., a Delaware corporation,  
26 TOMORROWNOW, INC., a Texas corporation,  
and DOES 1-50, inclusive,

27 Defendants.  
28

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

**PLAINTIFFS' RESPONSES AND  
OBJECTIONS TO DEFENDANT  
TOMORROWNOW INC.'S THIRD  
SET OF INTERROGATORIES**

**CONTAINS HIGHLY  
CONFIDENTIAL INFORMATION  
DESIGNATED PURSUANT TO  
PROTECTIVE ORDER**

1 **PROPOUNDING PARTY:** Defendant TomorrowNow, Inc.

2 **RESPONDING PARTY:** Plaintiffs

3 **SET NO:** Three

4

5 Pursuant to Federal Rule of Civil Procedure 33, Plaintiffs Oracle Corporation,  
6 Oracle USA, Inc., and Oracle International Corporation (collectively, "Oracle") respond and  
7 object to Defendant TomorrowNow, Inc.'s Third Set of Interrogatories as follows:

8 **GENERAL OBJECTIONS**

9 1. The following General Objections are incorporated into each specific  
10 Response below as if fully repeated in each Response. Any failure to repeat all or any part of  
11 these General Objections in a specific Response shall not constitute a waiver or relinquishment  
12 of such objections.

13 2. Oracle's answers to any Interrogatory shall be without prejudice to, and  
14 shall preserve, any objections that it may have to the competence, relevance, materiality, or  
15 admissibility of any of the Interrogatories, the Responses, and their subject matter at any hearing  
16 or trial in this action.

17 3. Oracle objects to the Interrogatories to the extent they purport to obligate  
18 Oracle to respond in any manner that exceeds or is inconsistent with the requirements of the  
19 Federal Rules of Civil Procedure or any other applicable laws. Oracle shall respond to the  
20 Interrogatories to the extent and in the manner required by the Rules.

21 4. Oracle objects to each Interrogatory to the extent that TomorrowNow, Inc.  
22 ("TN") seeks information that is not within Oracle's possession, custody, or control, including  
23 without limitation information that is in the possession of any party's customers. Oracle will  
24 respond to the Interrogatories based only on information in its own possession, custody, or  
25 control, as required by the Federal Rules of Civil Procedure.

26 5. Oracle objects to these Interrogatories to the extent they are compound.

27 6. Oracle objects to each Interrogatory to the extent it seeks disclosure of  
28 information protected from discovery by the attorney-client, common interest, work product,

1 witness statement, and/or party communications privileges, the privileges and exemptions from  
2 discovery afforded to materials prepared in anticipation of litigation or in preparation for trial,  
3 and all other applicable privileges. Oracle does not intend to disclose such protected  
4 information.

5 7. Oracle's investigation into the facts of the case is ongoing. These  
6 Responses are made based on Oracle's knowledge to date. Oracle reserves the right to  
7 supplement these Responses and will amend these Responses as required at an appropriate time  
8 pursuant to Federal Rule of Civil Procedure 26(e).

9 **OBJECTIONS TO INSTRUCTIONS**

10 1. Oracle objects to the "rules of construction" stated in Instruction 2 on the  
11 grounds that they are unduly burdensome and overbroad.

12 2. Oracle objects to the time period set by Instruction 3, which is "January 1,  
13 2002 through the date of response," as overbroad and unduly burdensome to the extent that it  
14 imposes a burden or obligations to different from or additional to any agreement the parties may  
15 reach regarding production of information before 2004 and after the filing of the litigation. The  
16 parties are still meeting and conferring on this issue. Accordingly, agreement on the proper  
17 scope of discovery is a condition precedent to any production of post-litigation material.

18 **RESPONSES AND OBJECTIONS TO THIRD SET OF INTERROGATORIES**

19 **RESPONSES TO THIRD SET OF INTERROGATORIES**

20 **INTERROGATORY NO. 17:**

21 Identify each customer that returned to Oracle (or PeopleSoft or JDE prior to their  
22 acquisition by Oracle) from January 1, 2002 through the present after having been a TN  
23 customer.

24 **RESPONSE TO INTERROGATORY NO. 17:**

25 In addition to its General Objections, which Oracle incorporates here by  
26 reference, Oracle objects that its investigation into the circumstances of Defendants' interference  
27 with Oracle's customer relationships is not yet complete. Further, discovery may reveal  
28 additional customers that cancelled support with Oracle to become TN customers. Accordingly,

1 Oracle cannot yet know all of the customers that returned to Oracle after having been a TN  
2 customer. Oracle further objects to this Interrogatory on the grounds that it calls for information,  
3 such as the identities of TN's customers, that is already in Defendants' possession, or is as easily  
4 or more easily accessible to Defendants than to Oracle. Oracle further objects to this  
5 Interrogatory to the extent it calls for information that is in the possession, custody or control of  
6 third parties, in that it seeks information that is in the possession of customers, not Oracle.  
7 Oracle further objects to the use of the undefined terms "returned to Oracle" and "having been a  
8 TN customer" on the grounds that they are vague and ambiguous. Accordingly, Oracle interprets  
9 this Interrogatory as seeking the names of customers listed in Exhibit 1 to Defendants' First Set  
10 of Document Requests to Plaintiffs ("Exhibit 1") who are currently Oracle customers for support.  
11 Oracle further objects to the extent that this Interrogatory calls for a legal conclusion. Oracle  
12 further objects to the extent that this Interrogatory calls for information that is properly the  
13 subject of expert testimony, which shall be provided at the appropriate time. Oracle further  
14 objects to the extent that this interrogatory seeks information protected by the attorney-client,  
15 work product privileges, and/or any other applicable privilege, protection or immunity. Oracle  
16 further objects to this Interrogatory to the extent that it is cumulative and/or duplicative of  
17 information sought by Defendants as part of the targeted search process and in particular during  
18 the meet and confer surrounding that process.

19 Subject to and without waiver of the foregoing General and Specific objections,  
20 and in particular that Oracle cannot know all customers who signed up with TN and have  
21 returned to Oracle for support and has only tracked this information in a limited and informal  
22 way, Oracle responds that it believes that the following customers may have returned to Oracle  
23 after having been a TomorrowNow customer:

24 **REDACTED**  
25  
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1 **REDACTED**  
2  
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6 Furthermore, pursuant to Fed. R. Civ. Proc. Rule 33(d), Oracle refers Defendants to Oracle's  
7 production of the customer license agreements for customers TN has identified as its current and  
8 former customers, including but not limited to materials Bates-Numbered ORCL00000001  
9 through ORCL00007590. Because Oracle has not tracked this category of customers in its  
10 ordinary course of business, Oracle is further investigating this time-intensive analysis and  
11 reserve the right, and expect, to further amend and/or supplement this Response when that  
12 investigation/analysis is complete.

13 **INTERROGATORY NO. 18:**

14 For each customer identified in response to Interrogatory No. 18, state the  
15 revenues and profits per customer, by year for each year in which the customer was an Oracle  
16 customer (before and after TN) for licensing and support of the PS and/or JDE products at issue  
17 in the Complaint.

18 **RESPONSE TO INTERROGATORY NO. 18:**

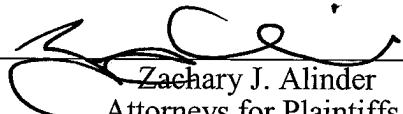
19 In addition to its General Objections, which Oracle incorporates here by  
20 reference, Oracle objects that this Interrogatory is internally inconsistent and unintelligible in  
21 that it refers to itself in defining the set of customers that it seeks information about. Oracle  
22 further objects that its investigation into the circumstances of Defendants' wrongdoing is not yet  
23 complete. Oracle further objects to this Interrogatory on the grounds that it is unduly  
24 burdensome in that Oracle does not track "profit" information for specific customers. Oracle  
25 further objects to this Interrogatory to the extent it calls for information that is in the possession,  
26 custody or control of third parties, in that it seeks information that is in the possession of  
27 customers, not Oracle. Oracle further objects to the use of the undefined term "customer" on the  
28

1 grounds that it is vague and ambiguous. Oracle further objects to the extent that this  
2 Interrogatory calls for information that is properly the subject of expert testimony, including an  
3 expert damages analysis, which shall be provided at the appropriate time. Oracle further objects  
4 to the extent that this interrogatory seeks information protected by the attorney-client, work  
5 product privileges, and/or any other applicable privilege, protection or immunity. Oracle further  
6 objects to this Interrogatory to the extent that it is cumulative and/or duplicative of information  
7 sought by Defendants as part of the targeted search process and in particular during the meet and  
8 confer surrounding that process.

9  
10 DATED: September 22, 2008

11  
12 BINGHAM McCUTCHEN LLP

13  
14 By: \_\_\_\_\_

  
15 Zachary J. Alinder  
16 Attorneys for Plaintiffs  
17 Oracle Corporation, Oracle International  
18 Corporation, and Oracle USA, Inc.

**PROOF OF SERVICE**

I am over 18 years of age, not a party to this action and employed in the County of San Francisco, California at Three Embarcadero Center, San Francisco, California 94111-4067. I am readily familiar with the practice of this office for collection and processing of correspondence by Electronic Mail and U.S. Mail, and they are deposited and/or sent that same day in the ordinary course of business.

Today I served the following documents:

**PLAINTIFFS' RESPONSES AND OBJECTIONS TO  
DEFENDANT TOMORROWNOW INC.'S THIRD SET OF  
INTERROGATORIES**

(BY ELECTRONIC MAIL) by transmitting via electronic mail document(s) in portable document format (PDF) listed below to the email address set forth below on this date.

(BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at San Francisco, California in sealed envelope(s) with postage prepaid, addressed as set forth below. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence is deposited with the United States Postal Service the same day it is left for collection and processing in the ordinary course of business.

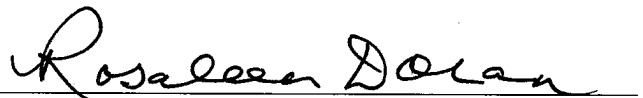
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I declare under penalty of perjury that this declaration was executed on September 22, 2008, at San Francisco, California.



Rosaleen Doran

# **EXHIBIT 4**

**Reply Declaration of Jason McDonell ISO Motion to Compel Third Party Support Provided by Oracle's Partners**

**Portions Redacted**

Customer	Year	SW	Revenue Amt	Negotiated Amt	SSR MGR	3r Party Name	Notes	Contract Number	Oracle ID	Date of At Risk	SSR Last Update	Current Stage	Theater	Renewal Start Date
[REDACTED]	2007	ENTERP	[REDACTED]	[REDACTED]	[REDACTED]	Cedar Crestone	<p>Note from customer [REDACTED]</p> <p>That is correct. We are looking to lock in to our current versions. At this time, I have direction from our Administrative Services director to not upgrade any of our PeopleSoft applications. To that end, we will be looking to not be under maintenance with Oracle but instead contract with Cedar Crestone for ongoing support.</p> <p>If the direction for upgrades should change we would approach you for any support options available at that time. Of note, the prevailing concern with PeopleSoft is the complexity and constant need to upgrade. Our end users are looking for a simplified set of applications that is more appropriate for small and mid sized organizations.</p> <p>I appreciate the follow up and look forward to continuing to work with you.</p> <p>Thx, [REDACTED]</p>		[REDACTED]		6/2/2006	Lost	AMER	6/18/2006