



TERMS & CONDITIONS FOR ANDE EQUIPMENT AND SERVICES SALES AGREEMENTS

Effective as of February 1, 2024:

The Products and Services that we provide to you (our "Customer") are subject to these Terms and Conditions. The current version of our Terms and Conditions may be found on our website at (ANDE.com/Terms-Conditions) which we may amend or modify from time to time. If we amend or modify these Terms and Conditions, we will bring it to your attention by placing a notice on the website and/or by sending you an email. Please check the Terms and Conditions periodically for changes. If you purchase a Product or Service after a change to the Terms and Conditions becomes effective or continue to use a Product and/or Service without objection, it means you have accepted the changes.

1. Warranty and Limitation of Liability

1.1 Limited Warranty. Products- ANDE warrants that all **Instruments** purchased hereunder will, for a period of one (1) year after delivery (as set forth in Section 7.3), meet ANDE's specifications, as set forth on our website (as amended from time to time) at the time of delivery, provided that such Instruments are stored, handled and used in accordance with the Agreement and any and all instructions, including without limitation training, provided by ANDE in connection with such Instruments and as determined by ANDE in its sole and absolute discretion. For absence of doubt, if you are a Reseller, the Warranty granted hereunder (including its Term) is granted solely to you. Extended warranty protection may be purchased at your expense for transfer to End Users. If you, as Reseller sell an Instrument to an End User within thirty (30) days after its delivery to you (as set forth in Section 7.3), ANDE shall extend the Term of the Warranty to the End User for thirty (30) days. **Products other than Instruments (and including Chips and Consumables and Software)** purchased or licensed hereunder will, for a period of ninety (90) days after delivery, or through the expiry date printed on the product, whichever is later, meet ANDE's specifications, as set forth on our website (as amended from time to time) at the time of delivery, provided that such Products are stored, handled and used in accordance with the Agreement and any and all instructions, including without limitation training, provided by ANDE in connection with such Products and as determined by ANDE in its sole and absolute discretion. Information about Chip performance is set forth on our website. In the event of failed results due to a chip fault, as determined by ANDE from review and run, system, and/or telemetry data, ANDE may replace the Chip in the normal course of Order processing. ANDE is not responsible for Chip failures due in whole or in part to your sample collection or handling, sample quality, sample contamination, improper use of the instrument, or sample or Product or Chip transport, storage or other environmental condition. Any warranty claim for an Instrument or a Product must be made in writing within (30) days after the end of the warranty period. You may be required to assist in diagnosing any problem with a Product, (which may include, without limitation, providing remote access, data, photographs, or telephone access to users familiar with the problem, or combinations thereof), and failure to cooperate in the diagnosis of the problem may void the warranty. ANDE shall determine, in its sole discretion, whether the problem is covered under warranty. If ANDE determines the problem is not covered by warranty, it reserves the right to charge you in advance for any necessary service. ANDE's sole obligation, and your exclusive remedy, for a breach of warranty shall be repair or replacement (in ANDE's sole discretion) of the Instrument or Product (as applicable). Comparable new or reconditioned parts may be used for such repair or replacement.

Software - ANDE warrants for a period of three (3) months from delivery that all **Software** substantially conforms to its published specifications and that the media on which the Software resides will be free from defects in materials and workmanship under normal use, and any claim shall be submitted in writing within that period. ANDE does not warrant that the Software is error free or that you will be able to operate the Software without problems or interruptions. ANDE's sole liability and your exclusive remedy in the event of breach of this warranty is limited to repair, replacement or refund, at the sole option of ANDE. Where the Product is intended to be used with a particular licensed computer program supplied by ANDE the use of any other program will result in ANDE's warranty on the Product being void.

Services - ANDE warrants that all **Services** will be provided in a professional and workmanlike manner by individuals with suitable skills and abilities, as determined by ANDE in its sole discretion. Services will be deemed accepted when performed. Any warranty claim for Service must be made in writing upon completion of service but no later than 10 days after performance or re-performance of the non-conforming Service. You may be required to assist in diagnosing any problem with a Service, (which may include, without limitation, providing remote access, data, photographs or telephone access to



users familiar with the problem, or combinations thereof), and failure to cooperate with the diagnosis of the problem may void the warranty. ANDE shall determine, in its sole discretion, whether the problem is a non-warranty service subject to the terms of your existing Service Agreement, or a problem covered under warranty. If ANDE determines the problem is not covered by warranty or your existing Services agreement, ANDE reserves the right to charge you in advance for any necessary service. The term of the Services warranty under this Section shall be tolled for the number of days necessary to complete re-performance of the nonconforming Service. ANDE's sole obligation and your exclusive remedy for breach of the warranty in this Section shall be re-performance of the nonconforming Service.

1.2 Disclaimer and Limits of Liability. ALL OTHER WARRANTIES, REPRESENTATIONS, TERMS AND CONDITIONS (STATUTORY, EXPRESS, IMPLIED OR OTHERWISE) AS TO THE QUALITY, CONDITION, DESCRIPTION, MERCHANTABILITY, FITNESS FOR PURPOSE OR NON-INFRINGEMENT ARE HEREBY EXPRESSLY EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. ANDE DOES NOT ASSUME, NOR DO WE AUTHORIZE ANY EMPLOYEE, AGENT OR OTHER PERSON TO ASSUME FOR US, ANY OTHER WARRANTY, REPRESENTATION, TERM OR CONDITION IN CONNECTION WITH OUR PRODUCTS OR SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANDE EXPRESSLY EXCLUDES AND YOU EXPRESSLY WAIVE LIABILITY TO YOU OR ANY OTHER PERSON OR ENTITY FOR LOSS OF PROFIT OR USE, COST OF COVER, SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, RELIANCE, EXEMPLARY, PUNITIVE OR MULTIPLE DAMAGES, INCLUDING WITHOUT LIMITATION FOR LOSS OF GOODWILL, DATA OR EQUIPMENT OR FOR BUSINESS INTERRUPTION, ARISING OUT OF THE SUPPLY OR USE OF OUR PRODUCTS, SERVICES, EQUIPMENT OR SOFTWARE OR FAILURE OR DELAY IN DELIVERING SUCH PRODUCTS, SERVICES, EQUIPMENT OR SOFTWARE OR OTHERWISE ARISING IN CONNECTION WITH THE AGREEMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT, FAULT OR OTHERWISE, EVEN IF WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OUR ENTIRE LIABILITY FOR A PRODUCT, SERVICE OR CONSULTATION, EQUIPMENT OR SOFTWARE OR IN CONNECTION WITH THE AGREEMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT, FAULT OR OTHERWISE, SHALL NOT EXCEED IN THE AGGREGATE, THE AMOUNT THAT YOU PAID FOR SUCH PRODUCT, SERVICE, EQUIPMENT, SOFTWARE, OR CONSULTATION. ANDE HEREBY EXPRESSLY DISCLAIMS, AND YOU HEREBY EXPRESSLY WAIVE ANY CLAIM OF LIABILITY FOR THE PURPOSES FOR WHICH YOU USE OUR PRODUCT, SERVICE, EQUIPMENT OR, SOFTWARE, INCLUDING WITHOUT LIMITATION, ANY CLAIM OF INACCURATE, INVALID OR INCOMPLETE RESULTS.

2. Mutual Indemnifications

2.1 Your Indemnifications to ANDE. You agree to indemnify, defend and hold harmless ANDE, its Affiliates and our officers, directors, employees and agents (collectively, "ANDE Indemnitees") from and against any and all costs, damages and expenses (including reasonable attorney's fees) incurred or suffered by ANDE Indemnitees arising directly or indirectly from any third party claims relating to: (1) the breach by you of any of your covenants, agreements, representations, warranties or other obligations in this Agreement; (2) fraud, gross negligence or intentional misconduct by you or your representatives in connection with this Agreement; or (3) any misuse or unauthorized or unintended use of the Products, Equipment or Software.

2.2 ANDE'S Indemnifications to You. ANDE shall defend and indemnify you, your Affiliates and your officers, directors, employees and agents from and against any third party damages liabilities, costs and expenses arising out of any third party claim that the Product as delivered or in use, infringes a valid patent or copyright in the jurisdiction. If any Product, Service, Equipment or Software becomes, or in ANDE's opinion, is likely to become the subject of any injunction preventing its use as contemplated herein, ANDE may, at its option (1) procure for you the right to continue using the Product, Service, Equipment or Software; (2) replace or modify the Product, Service, Equipment or Software so that it becomes non-infringing without substantially compromising its functionality; or (3) require you to return to ANDE the allegedly infringing Product, Service, Equipment or Software for a credit in an amount not to exceed the depreciated value of the Product, Service, Equipment or Software that you have paid. The depreciated value shall be calculated on a straight-line basis over a three (3) year period. ANDE will have no liability or obligation based on (1) your use of the Product that is not in accordance with the Agreement or any instructions, including without limitation training, provided by ANDE in connection with such Product or your use of the Product in an application or on a platform or with devices for which the Product was not designed or reasonably contemplated; (2) modifications, alterations, combinations or enhancements of the Product not supplied by



ANDE; or (3) any patent, copyright or trade secret in which you have a financial, ownership or other interest. The indemnifications stated in this **Section 2.2** constitute the entire liability of ANDE with respect to infringement of intellectual property rights by the Product or any parts thereof. ANDE shall not be liable for any regular, consequential, special or exemplary damages caused by you.

2.3 Indemnification Procedures. The indemnified party will (1) notify the indemnifying party of any claim for which the indemnifying party has an indemnification obligation under this Agreement ("Claim"); (2) relinquish control of the defense and settlement to the indemnifying party; and (3) assist the indemnifying party as reasonably requested. The indemnifying party may settle any Claim without the indemnified party's consent if the settlement does not affect the rights of the indemnified party and includes the full and unconditional release of the indemnified party. Without limiting any of the foregoing in this Section, the indemnified party may participate in the defense at its expense. The indemnifying party shall not be responsible for any settlement of a suit or proceeding made without its prior written consent.

3. Mutual Grants of Immunity. If applicable and to the extent not prohibited by applicable law, each Party will be entitled to not less than the same benefits and protections afforded by any law, regulation or other applicable rule which extends protections to the other Party in any form, including but not limited to governmental or other immunity, indemnification, or other protection. Neither Party will object to or interfere with the assertion of such immunity by the other Party.

4. Mutual Termination for Breach. Either Party may terminate this Agreement upon the other Party's uncured material breach, provided that (1) the non-breaching Party will first have sent written notice to the breaching Party describing the breach in reasonable detail and demanding that it be cured; (2) the breaching Party does not cure the breach within thirty (30) days following its receipt of such notice; and (3) following the expiration of the thirty (30) day cure period, the non-breaching Party sends a second written notice to the breaching Party indicating that the non-breaching Party has terminated the Agreement, provided however, that the cure period in (2) will extend for an additional thirty (30) days if either party uses good faith efforts to cure.

4.1 Your Obligations Upon Termination. In the event of termination, you agree to pay for Products and/or Services delivered and outstanding invoices. Upon termination, you agree to (1) immediately cease use of licensed products, including Software; (2) immediately cease use of leased or loaned Products, including Instruments; (3) exercise reasonable care and caution in the timely return of leased or loaned Products to ANDE; and (4) cooperate with ANDE in the timely return of all leased or loaned Products.

5. Intellectual Property

5.1 ANDE IP. All of the intellectual property rights in the Products, Services, Software and Equipment will remain with ANDE. All patents, trademarks, service marks, trade names, logos, know-how, techniques, designs, devices, improvements, derivative works, data, specifications, software, algorithms, discoveries or inventions, whether or not reduced to practice) related to the Products, Services, Software or Equipment, shall remain the property of ANDE and/or its licensors. Software is not sold, but rather licensed solely for the end-user's internal use in or in connection with the Instruments and Products provided hereunder. If you are a reseller, each distribution of Products by you shall be made pursuant to an enforceable written agreement ("End-User Agreement") that flows license rights through to the end user and is at least as protective of ANDE and its rights and protections as set forth in the Agreement, and which names ANDE as a third party beneficiary. Promptly upon request, you will provide ANDE with a copy of your then current form End-User Agreement and you agree to use reasonable efforts to enforce End-User Agreements, and to reasonably cooperate in ANDE's efforts to protect its proprietary rights or obtain the benefits of its protections, through enforcement of End-User Agreement(s) as a third party beneficiary. You shall notify ANDE of any known or suspected violation of any End User Agreement, or infringement or misappropriation of ANDE's proprietary rights, that you become aware of.

Any user license that may be granted to you, either as a reseller or an end user, under the Agreement (including a license to use Software) shall be non-transferable, non-sublicensable and non-exclusive and shall only be used by you for your own internal business purposes of either reselling or operating the Products, Software or Equipment to which it pertains (depending on your status as reseller or end-user). Any such license shall terminate automatically on the termination or expiry of the Agreement.

5.2 Restrictions on Use and Prohibited Uses. You recognize and agree that the Products, Equipment, Software and Services provided hereunder are subject to use restrictions that are a condition of purchase. You agree to comply with all such restrictions as may be set forth in this Agreement, in ANDE's catalogue or website, on its Products, or Equipment, or



in documentation or on labels provided, or as otherwise provided in writing to you, as well as with any applicable regulatory requirements. Products, Software or Equipment may not (1) be used in a manufacturing process or in a manufactured product; (2) be re-sold for use that is not in full compliance with the Agreement; (3) be used in a service business by you or your Affiliates (if any) unless ANDE has specifically granted such right to you in a separate written agreement; (4) be used in medical, clinical or diagnostic applications or in vivo. Instruments contain software, including without limitation, system software and expert system software which are provided to you pursuant to a non-transferable license. This agreement gives you only limited rights to use the software and ANDE and its licensors reserve all other rights. You may not transfer the software or your license to such software to any third party. If you wish to resell any Instrument, you agree to notify ANDE of your intention to resell and the name and location of the buyer so that ANDE may, in its discretion, license the software directly to the buyer. If ANDE does not agree to license the software directly to your buyer you agree to find another buyer or to remove all licensed software prior to sale or transfer to that buyer. You are not entitled to change the configuration, including the original labels, branding or packing of any Product. Components of Products may not be mixed, repackaged, sold separately, or offered in any form other than as provided by ANDE. You agree not to make any disposition by way of transshipment, re-export, diversion or otherwise, of U.S. origin goods and technical data (including computer software), or the direct product thereof, supplied by ANDE hereunder. You also agree not to export the ANDE Products or Equipment, or any information or documents provided hereunder outside of the country of delivery without the requisite export license from the relevant body of the United Nations or other similar organization, the United States Government, the European Union, the country of origin or the original country of export. If such export is contemplated, you agree to furnish ANDE with copies of all documents relating to such export in advance.

You agree not to directly or indirectly, or allow or enable any third party to: (1) reverse engineer, (except to the extent applicable statutory law expressly prohibits reverse engineering restrictions) or assist another in the reverse engineering of any Product, Equipment or Software supplied hereunder; (2) access, attempt to access or assist another in the access of ANDE IP, including Software, that ANDE has not authorized you to access in writing; or (3) modify, view, copy, store, transfer, install, delete or obtain programs or data from ANDE Products (excluding sample data generated from the permitted uses); (3) incorporate or use any part of any Product, Equipment or Software in other works, create derivatives of, modify or copy any portion of any Product, Equipment or Software, or to use the Product, Equipment or Software for the benefit of any third party, including without limitation to improve or otherwise modify any competing product, software or service. For your convenience and for the convenience of End-Users (if applicable) Products and Equipment may be accompanied by third party, including open-source software. Such third-party software is not part of the Product or Equipment and is licensed directly by the software provider to you. ANDE is not a party to the license agreement between you and such third-party software provider, and ANDE shall not have any warranty, support or other obligations or liabilities to you in respect of such third-party software.

If a Product is provided to any unit or agency of the United States Government ("Government") the following provisions shall apply: All software and accompanying documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any uses, modification, reproduction, release, performance, display or disclosure of the software and accompanying documentation by the Government shall be governed solely by the terms herein and shall be prohibited except to the extent expressly permitted by the terms herein or therein. For clarity, Software shall be deemed to be the proprietary, confidential information of ANDE.

6. Your Use Obligations.

6.1 Compliance and Access to ANDE. You agree to comply with all System requirements published and/or updated from time to time on the ANDE website or otherwise made known to you. For any Services performed or Equipment or Instruments provided on your premises, you will (1) provide appropriate facilities, access and interfaces necessary for implementation of the Service, furnishings, Equipment, Instrument, documentation, and data; (2) maintain adequate security, safety, utilities, and environmental standards; (3) exercise reasonable care and caution in the storing, using, or transporting of Instruments and Equipment provided under this Agreement. You agree, upon reasonable notice, to take the System offline for maintenance and upgrades. You shall be solely responsible with the data generated by use of the Products hereunder, including determining whether any privacy laws, regulations or duties apply to the data and complying



with all such laws, regulations and duties, providing for data security and for adequate backup of data. ANDE shall have no liability to you or any other person, including without limitation any customers or persons from whom samples are taken for analysis using Products, arising from your violation of any restriction on the process or use of data or in the willful or negligent treatment, processing, handling or storage of any data.

6.2 Operational Data Rights to ANDE. You agree to grant ANDE access to instrument performance logs and files, including but not limited to system logs and telemetry files and files to perform system support, maintenance and improvements. ANDE agrees not to publish any information that may be attributable to you, your employees, or the citizens you serve (if applicable).

7. General Provisions

7.1 Taxes and Duties. You shall be responsible for paying all applicable taxes, duties, fees and other government charges relating to the Products and Services, except taxes based on ANDE's income.

7.2 Payments. Unless otherwise agreed upon by ANDE in writing, you are required to prepay fifty percent (50%) of the full value of each purchase order at the time the purchase order is issued. ANDE will apply such prepayment ratably over the invoices associated with such purchase order. For example, if you make a \$100 prepayment on a \$200 dollar purchase order that will be invoiced over four shipments, then \$25 of the prepayment would be applied to each \$50 invoice issued with each of the four shipments. All remaining amounts owed under each purchase order are due within thirty (30) days after the date of the applicable invoice. Payments shall be made by wire, ACH or overnight mail. In the event of a late payment, ANDE reserves the right, in its sole discretion to (1) suspend deliveries and/or cancel any outstanding obligations; (2) exercise any and all rights allowed by law to a creditor against a debtor in order to collect the unpaid amounts. Overdue payments shall be subject to finance charges of the lower of 18% per annum or the maximum interest rate allowed by law.

7.3 Deliveries, Title Transfer, Risk of Loss. All Products are delivered EXW ANDE's designated facility (as defined in Incoterms 2010). All risk of loss or damage to Products will pass to customer at the time and place of the aforementioned delivery by ANDE to the designated facility. For clarity, customer will be solely responsible for (a) importing Products into countries outside the United States; (b) clearing Products through local customs upon arrival to such country; (c) paying all customs duties, taxes and other charges assessed on importation into such country; (d) complying with all United States export requirements, regulations, embargoes and restrictions; and (e) all shipping-related costs and expenses. ANDE may make partial shipments on account of customer's Purchase Orders, to be separately invoiced and paid for when due. Delay in delivery of any installment shall not relieve customer of its obligation to accept the remaining deliveries.

You must notify the carrier and ANDE immediately if any Products or Equipment are received in a damaged condition. ANDE will use commercially reasonable efforts to avoid delay in delivery of Products; however, if delivery of any Product or Equipment requires an import license or other authorization before shipment, ANDE shall not be responsible for any delay in delivery due to delay in, or refusal of, such license or authorization.

ANDE grants only a license and does not pass title for any Software provided under this Agreement.

To the extent not prohibited by applicable law, ANDE reserves all title to and right of ownership for the Products delivered by ANDE to you until payment of the mutually agreed upon price for the purchase of such Products has been paid in full by you to ANDE. You shall cooperate with ANDE, as requested by ANDE, in any measures necessary for the protection of ANDE's title to and ownership of such Products, including without limitation in reservation of title in the required form in public registers or similar records. Without limiting any of the foregoing, as collateral security for the payment of the purchase price of the Products, you hereby pledge and grant to ANDE, a lien on and security interest in and to all of your right, title, and interest in, to, and under the Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the applicable state Uniform Commercial Code.

7.4 Force Majeure. Neither party will be liable to the other, or considered in breach, for delays or defaults in its performance (except for its payment obligations) due to causes beyond its reasonable control, including acts of God or government; war, terrorism, fire or explosion; flood; extreme weather; epidemic; riots; embargoes; viruses (including COVID-19); technology attacks; labor disturbances; failure or unavailability of the Internet, telecommunications, transportation, utilities or suppliers.



Force Majeure shall not include (1) financial distress nor the ability of either Party to make a profit or avoid a financial loss; (2) changes in market price or conditions; or (3) a Party's financial inability to perform its obligations hereunder.

7.5 Independent Contractors; No Third-Party Beneficiaries. The parties are independent contractors, and this Agreement does not create an agency, joint venture or partnership. This Agreement benefits you and ANDE only. Your customers are not third party beneficiaries of this Agreement.

7.6 Conflict; Amendment; Severability. If any term, provision or section is held void, illegal or unenforceable, the validity or enforceability of the remainder will not be affected. No course of dealing or failure to exercise any right or obligation can operate as an amendment or waiver. This Agreement may be modified or amended, or a provision waived, only in a writing signed by both you and ANDE.

7.7 Assignment. This Agreement will be binding on the permitted successors and assigns. Either party may transfer or assign this Agreement to an Affiliate or to an acquirer of all or part of its business or assets without consent.

7.8 Applicable Law and Remedies. This Agreement is governed by the law of the State of Colorado without regard to choice of law principles, and you agree to submit to the non-exclusive jurisdiction of the courts of the State of Colorado. THE PARTIES WAIVE AND FOREGO ANY RIGHT TO A TRIAL BY JURY. If there is a dispute, arising out of this Agreement, we agree that it shall be resolved by binding arbitration administered by the International Center for Dispute Resolution ("ICDR") in accordance with its International Arbitration Rules then in effect. The arbitration shall be conducted by a single arbitrator, who shall be mutually selected, or if we cannot agree, shall be appointed by the ICDR. The arbitration will be conducted in English and shall take place in the state of Colorado. Each party will bear its own expenses (including attorneys' fees), however, the arbitrators' fees and the ICDR costs shall be mutually shared. The decision of the arbitrator shall be binding, and judgement may be entered by any court of competent jurisdiction.

Notwithstanding the foregoing, each party will have the right to commence an action, including for a restraining order to enforce the intellectual property and restrictions on use provisions of Section 5. All rights and remedies are in addition to any other rights or remedies at law or in equity, unless designated as an exclusive remedy in this Agreement.

7.9 Compliance with Laws. Each party has or will timely obtain all consents, licenses, permits and certificates required to perform under this Agreement. ANDE's performance is subject to existing laws, and ANDE may cease or modify the Products or Services, or these Terms and Conditions as reasonably required to comply with changes in law.

You agree to comply in all respects with all United States and foreign laws, regulations and standards applicable to your activities under this Agreement, and will require any employee, agent, director or other representative acting on your behalf to comply. You hereby represent and warrant that no part of any fees paid or payable to you or any profits obtained by you in connection with your activities under this Agreement will be (1) directly or indirectly paid, offered, transferred, or given to any official, representative, or employee of any government, government agency or instrumentality for the purpose of obtaining or retaining business for or with, or directing business to, any person or company (such as ANDE), or (2) otherwise used for any purpose which would violate the U.S. Foreign Corrupt Practices Act or any other laws, regulations, and standards of the United States or other applicable countries. You also represent and warrant that none of your owners, principals, officers, employees, or staff members are officials, officers, employees, or representatives of any government, governmental agency or potential party or a candidate for political office, and that you will not be involved in the decision-making process associated with any award that may be made in response to any bid by ANDE. You also represent and warrant that you will keep complete and accurate records of all payments of any kind made by you from or with respect to commissions, service fees, or other payments received from ANDE, and such records shall be subject to inspection ad audit by ANDE and its representatives at any time.

If applicable, with regard to exports, and re-exports, you represent and warrant that no Product supplied by ANDE with or to you, or over which you have control as a reseller, will be shipped, directly or indirectly, to any person or organization (1) in any jurisdiction subject to sanctions by the Bureau of Industry and Security (BIS), including without limitation, Cuba, Iran, North Korea, or Syria who is considered a part of the government of those countries, or (2) who is involved in improper development or use of nuclear weapons, or chemical/biological weapons (CBW) or missiles, or in terrorist activities, or (3) who is listed by the government of the United States or of any other country as prohibited from receiving the Product, or from participating in export transactions involving the Product. This export or re-export restriction applies equally to any component or portion of any Product, as well as to any Service that is based upon all or any part of the Products.

You agree that you will provide updated certifications as requested by ANDE from time to time. You also agree to indemnify ANDE and hold it harmless from any and all fines, damages, losses, costs and expenses (including without limitation



reasonable attorneys' fees) incurred by ANDE as a result of a breach of the above, and you understand and agree that a breach will entitle ANDE to terminate any and all contractual relationships with you. This provision shall survive the expiration or termination of this Agreement.

7.10 Notices; Entire Agreement; Survival; Signature. All notices, including any notice of infringement, must be in writing and delivered to the attention of the CFO, ANDE Corporation, 1860 Industrial Cir. Longmont, CO 80501. Notices are effective on receipt when sent by certified or registered U.S. or international mail, charges prepaid, return receipt requested or when delivered by hand, or by overnight courier with confirmed receipt. This Agreement constitutes the entire agreement and supersedes any prior written or oral agreements or understandings related to its subject matter. Sections 1,2,3,4,5,6.1 (the last two sentences only) and 8 and any and all remedies for breach will survive termination or expiration of this Agreement. This Agreement may be executed in counterparts, by facsimile or electronically, and is not enforceable unless executed by both parties.

8. Definitions.

8.1 "Affiliate." An affiliate of, or person affiliated with, a specified person means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common ownership with the person specified. In the case of governmental entities, Affiliates include local or regional entities under the supervision or control of the contracting party.

8.2 "Agreement." Agreement means either contract or invoice for the sale of Products and/or Services between ANDE and you, or the Order signed by you and accepted by ANDE in writing, including all exhibits, and any software use or license agreements accepted by the act of unwrapping, installation, operation or use of Equipment or Products provided under this Agreement, together with these Terms and Conditions. Unless provided to the contrary herein, in the event of any conflict, the Terms and Conditions shall take precedence over the other documents included in the Agreement.

8.3 "Chip." Chip means the Consumable that contains the reagents for ANDE Rapid DNA™ analysis.

8.4 "Consumable." Consumable means all items (other than Equipment, Instruments or Software), including Chips, pre-processing reagents and/or kits, and swabs for ANDE Rapid DNA™ analysis.

8.5 "Equipment." Equipment means items (other than Instruments), if any that are of a capital nature, including without limitation, computers, and non-expendable accessories or spare parts, that are provided by ANDE pursuant to the Agreement.

8.6 "Instrument." Instrument means the ANDE Rapid DNA™ instrument.

8.7 "Order." Order means an order (via the ANDE website or otherwise) that is accepted by ANDE for purchase of Products or Services.

8.8 "Product." Product means all items (other than Equipment or Software), including Instruments, Chips and Consumables, agreed to be supplied by ANDE under a contract, Invoice or Order, as provided herein, or on ANDE's website, as amended from time to time.

8.9 "Services." means all services provided under this Agreement in connection with an Instrument, Equipment, Product or Software, including any support set forth in the Agreement.

8.10 "Software." means any firmware, software or data compilations provided in executable format that is identified in the Agreement or provided to Customer in connection with purchase, installation or operation of Instruments or Products.

8.11 "System." System means an Instrument, Chip, and Software for Rapid DNA™ analysis provided hereunder.