

GENERAL TERMS AND CONDITIONS OF TOXYS

NOVEMBER 2021

1 Definitions

1. In these General Terms and Conditions the following terms shall have the meaning set out below.

- (a) Toxys: Toxys Inc, a Delaware corporation.
- (b) Customer: any natural person or legal entity with whom Toxys and its employees and/or other representatives deal in the course of its business.
- (c) General Terms and Conditions: these general terms and conditions used by Toxys in relation to Customer, irrespective of the form in which they are presented.
- (d) Materials: all materials that Toxys provides to run ToxTracker and/or ToxTracker ACE, including but not limited to reporter cell lines, wild type stem cells, feeder cells and medium.
- (e) Products: all movable assets, including but not limited to the ToxTracker and ToxTracker ACE, as well as the Materials to be used to run ToxTracker and/or ToxTracker ACE, which are subject to any offer or agreement between Toxys and Customer.
- (f) Protocols: Toxys' documents on the application and/or use of its Products.
- (g) Results: all data generated by Customer using the Products provided by Toxys, in accordance with its conditions of use.
- (h) Service(s): the full assortment of Toxys' services, including but not limited to consulting and research and development services relating to toxicological services.
- (i) Third Party: any person or entity other than Toxys, Customer and their respective affiliates.
- (j) ToxTracker: the unique *in vitro* genotoxicity assay that combines multiple biomarkers to get mechanistic insight into the action of genotoxic compounds.
- (k) ToxTracker ACE: an extended version of the ToxTracker including direct discrimination between an aneugenic and a clastogenic mode-of-action of genotoxic compounds by added cell cycle analyses and detection of polyploidy.

2 Applicability

1. The General Terms and Conditions shall cover and form part of all offers, agreements and other acts, either made orally, in writing, electronic or in any other form, concerning the supply by Toxys of Products and/or Services to or on behalf of the Customer.
2. Deviations from the General Terms and Conditions shall only apply if and to the extent that

they have been explicitly agreed upon in writing between Toxys and Customer.

3. Toxys explicitly rejects the applicability of any general (purchase) conditions used by the Customer. Customer may issue a purchase order for administrative purposes only. Additional or different terms and conditions contained in any such purchase order will be null and void and do not bind Toxys.

4. Toxys reserves the right to change these Terms and Conditions from time to time. In the event that any changes are made, Toxys will provide Customer with a version of the revised Terms and Conditions. The revised Terms and Conditions will also be published on Toxys' website.

5. In case of inconsistencies between the terms of an agreement between Toxys and Customer and those contained in these General Terms and Conditions, those in the agreement shall control.

3 Offer and agreement

1. All offers made by Toxys are non-binding and may be revoked at any time, unless explicitly otherwise stated in writing by Toxys.
2. An agreement shall have been concluded as soon as the Customer accepts Toxys' offer in writing. However, any amendments by Customer of a Toxys offer will be deemed a new offer by Customer, which Toxys may accept or reject in its sole discretion. Such offers will only be deemed accepted by Toxys, if it does so in writing.
3. Toxys is entitled to request that Customer places orders for Products having a certain minimum quantity or value.
4. Any other party than Customer cannot derive any rights from an order placed by Customer with Toxys.
5. All agreements for the delivery of Products and/or Services to Customer shall be treated as separate agreements.

4 Prices, fees and variations

1. All prices and fees mentioned in Toxys' offers are in US dollars, unless explicitly otherwise stated by Toxys.
2. All prices are exclusive of, and Customer shall pay, all taxes, duties, levies or fees, or other similar charges imposed on Toxys or Customer by any taxing authority (other than taxes imposed on Toxys's income), related to Customer's order, unless Customer has provided Toxys with an appropriate resale or exemption certificate for the delivery location, which is the location where Products are delivered and used or Services are performed. In case of changes in law such that a tax is levied that is or becomes irrecoverable with a consequent increase to the costs to Toxys of

delivering the Products or supplying the Services, whereby and to such an extent Toxys is entitled to increase its prices accordingly and retro-actively. Furthermore, all costs for transport and delivery are not included in Toxys prices, unless explicitly otherwise stated by Toxys.

3. If Customer and Toxys mutually agree to modify the original agreement, the costs deriving from such modification will be invoiced to the Customer at the the current Toxys prices and fees.

5 Payment

1. Unless otherwise agreed in writing between Toxys and Customer, Toxys' invoices must be paid within 30 (thirty) days after the date of invoice. However, all amounts will be due immediately, in case Customer terminates or suspends all or a substantial portion of its business activities, becomes insolvent, admits its inability to pay its debts, or in case of the voluntary or involuntary filing of a petition for or adjudication of bankruptcy of Customer under any federal, state or municipal bankruptcy or insolvency act, or case of the appointment of a receiver, trustee, custodian, or liquidator, or in case of any act or action constituting a general assignment by Customer of its properties and/or interest for the benefit of creditors.

2. All payments by Customer to Toxys shall first be applied against the oldest of any outstanding invoices, irrespective of any other indication by Customer.

3. Customer shall not be entitled to any postponement of payment of Toxys' invoices, neither to any set-off or reduction.

4. Toxys is entitled at all times to require payment in advance by Customer and to postpone delivery of Products or performance of Services, until such payment in advance has been received.

5. Furthermore Toxys is entitled to require security from the Customer for the fulfilment of its payment obligation in any form, to be indicated by Toxys. In such event, the Products will only be delivered or Services will only be performed, after such security has been obtained.

6. If the Customer fails to pay an invoice within the payment term, Customer is in default without a warning or notice of default being required.

7. Where payment is not made within the agreed upon terms, contractual interest shall be owed at a rate of 1.5% a month, or the highest rate allowed by law, if lower, with effect from the first day following expiration of the payment term; part of a month shall be considered a full month.

8. All collection costs incurred by Toxys in respect of such collection, both in law (judicial costs) as well as out of law (extra judicial costs) shall be for the Customer's sole account.

6 Lead times, delivery and retention of title

1. Toxys shall deliver the Products and/or perform the Services, in accordance with the agreement. Delivery and/or performance times and dates are merely estimates, as well as lead times or any other deadlines, and Toxys cannot be held liable for any damages as a result of delay in delivery of the Products and/or performance of the Services. Unless otherwise agreed in writing, failure to meet delivery times or performance dates stated shall never be considered fatal, and if the time for delivery and/or performance is exceeded, Customer shall not be entitled to cancel or terminate the agreement with Toxys, or to claim any damages. If any delivery period or performance time risks to be exceeded, Toxys will inform Customer as soon as reasonably possible and the parties will enter into consultations in order to determine a new delivery and/or performance period.

2. Toxys is entitled to engage the services of third parties for the performance of an agreement, and Toxys is entitled to make partial deliveries.

3. Products shall be delivered Ex Works (Incoterms 2010) at the location indicated in the agreement between Toxys and Customer, or on Toxys's invoice. In deviation of the previous sentence and unless otherwise agreed, Toxys shall select a courier on behalf of Customer, taking into account the specific requirements for appropriate shipment of the Products. Courier expenses shall be charged to the Customer simultaneously with the Products.

4. All Products shall be suitably packed by Toxys and marked for delivery to Customer.

5. Title and risk of loss or damage with respect to the Products shall pass to Customer when Toxys hands over the Products to the courier.

6. Upon delivery, Customer shall store the Products in accordance with the storage conditions specified by Toxys and/or those conditions indicated on the packaging of the Product.

7. Customer shall provide Toxys access to all materials and information relevant to the Services as required by the agreement Toxys may postpone Services until Customer has provided all required materials and information relevant to the Services.

7 Complaints

1. Immediately upon receipt of the Products, Customer will verify the Products for potential defects or shortcomings, including incomplete or incorrect delivery. Claims in connection to shortages or errors in shipping must be reported in writing to Toxys within three (3) days of receipt of such shipment. If Customer fails to report timely, Toxys will have no obligation to correct such

shipments, unless Customer bears all the expenses thereof.

2. Immediately upon receipt of the Products, Customer shall inspect it for defects and non-conformance with the written specifications in the agreement between Toxys and Customer. Any claims for damaged, or defective Products or otherwise incorrect deliveries must be reported in writing to Toxys within fourteen (14) days from the date of receipt of the Products, otherwise the Products will have deemed to have been received in good condition and accepted by Customer.

3. At Toxys' first request, Customer shall either destroy or return any rejected Products. In the case Toxys instructs Company to destruct rejected Products, Company shall send Toxys an internal report accurately documenting such destruction.

4. Toxys may refuse to receive any Product not timely rejected in writing.

5. For any valid and timely claim made regarding Products under this Article 7, Toxys shall at its option, repair the Product or replace the Product with an identical or substantially similar Product. The foregoing shall be Customer's sole and exclusive remedy for damaged, defective, or missing Products.

6. All of Customer's objections against any of Toxys' invoices must be notified in writing to Toxys within five (5) days after the date of invoice, after which the invoice will be deemed accepted and payable in accordance with its terms.

8 Warranty, limitation of liability and indemnification

1. Toxys warrants to Customer that the integrity and the quality of its Products materially complies with the written specifications in the agreement between Toxys and Customer, up to the shelf-life date, as printed on the packaging of the Product. Toxys does not warrant specific results or outcome of the Services. The rights of the Customer with respect to the Toxys warranty are restricted to a lack of conformity caused by defects, faulty materials and failures in the Products or workmanship which appear under proper use, in conformity with the user manuals and Toxys's written instructions, and only for the purpose of non-clinical toxicological research.

2. Toxys's Product warranty becomes effective upon receipt of full payment for the Product, provided on-site installation and validation by Toxys has been successfully completed and confirmed in writing by Toxys.

3. The Toxys warranty is personal and cannot be transferred or assigned by Customer without prior written approval of Toxys.

4. The warranties hereunder do not cover faults or damages arising from faulty, careless, or improper

treatment, improper storage or unauthorized use or misuse of Products, and improper or defective environmental circumstances, or a failure caused by a product for which Toxys is not responsible.

5. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, CONCERNING THE PURCHASE, USE OR CONDITION OF ANY PRODUCTS OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY OR CONFORMITY WITH ANY DESCRIPTION OR SAMPLE. EXCEPT AS SET FORTH IN THIS WARRANTY, ALL WARRANTIES, REPRESENTATIONS, CONDITIONS AND OTHER TERMS IMPLIED BY LAW ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

6 CUSTOMER IS SOLELY RESPONSIBLE AND LIABLE FOR THE USE OF THE PRODUCTS, AND THE RESULTS OF THE SERVICES, EVEN IF SUCH ACTIVITIES WERE TO OCCUR WITHOUT CUSTOMER'S PERMISSION. NEITHER TOXYS NOR ITS OFFICERS OR EMPLOYEES OR AFFILIATES MAY BE HELD LIABLE WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER FORM OF LIABILITY FOR ANY CLAIM, DAMAGE, OR LOSS, (AND CUSTOMER HEREBY WAIVES ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION), ARISING OR RELATING TO THE USE OF THE PRODUCTS OR THE RESULTS OF THE SERVICES BY CUSTOMER.

7. IN NO EVENT SHALL TOXYS, ITS AFFILIATES OR ITS LICENSORS BE LIABLE, HOWEVER CAUSED AND WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER FORM OF LIABILITY, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF INCOME, BUSINESS, SALES, PROFITS (WHETHER ACTUAL OR ANTICIPATED), LOSS OF OR CORRUPTION TO DATA, OR INTERRUPTION OF BUSINESS.

8. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT TO THE CONTRARY, TOXYS'S AGGREGATE LIABILITY FOR ALL CLAIMS OF ANY KIND SHALL NOT EXCEED THE TOTAL PAID BY CUSTOMER FOR THE PRODUCTS OR SERVICES IN CONNECTION TO WHICH THE DAMAGING EVENT OCCURRED.

9. THE LIMITATIONS ON TOXYS'S LIABILITY ABOVE SHALL APPLY WHETHER OR NOT TOXYS, ITS EMPLOYEES, LICENSORS OR ITS AFFILIATES HAVE BEEN ADVISED OF THE

POSSIBILITY OF SUCH LOSSES OR DAMAGES ARISING.

10. CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD TOXYS, ITS PRESENT AND FUTURE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS AND ITS AFFILIATES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, PENALTIES, LIABILITY AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES, IN CONNECTION WITH OR ARISING OUT OF A BREACH BY CUSTOMER OF THESE GENERAL TERMS AND CONDITIONS OR ANY AGREEMENT BETWEEN TOXYS AND CUSTOMER, OR IN CONNECTION WITH OR ARISING OUT OF THE USE OF THE TOXYS PRODUCTS AND/OR RESULTS OF THE SERVICES BY CUSTOMER, INCLUDING THIRD PARTY CLAIMS THAT SUCH CUSTOMER USE INFRINGES THIRD PARTY RIGHTS.

11. CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD TOXYS, ITS PRESENT AND FUTURE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS AND ITS AFFILIATES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND THREATENED CLAIMS BY ANY THIRD PARTY, INCLUDING EMPLOYEES OF CUSTOMER ARISING OUT OF, UNDER OR IN CONNECTION WITH (1) THE DEATH OR BODILY INJURY OF ANY THIRD PARTY, INCLUDING ANY AGENT, EMPLOYEE, CUSTOMER, BUSINESS INVITEE OR BUSINESS VISITOR OF CUSTOMER, OR, (2) THE DAMAGE, LOSS OR DESTRUCTION OF ANY TANGIBLE PERSONAL OR REAL PROPERTY AT CUSTOMER'S PREMISES, BOTH ONLY TO THE EXTENT THAT SUCH WAS NOT A RESULT OF GROSS NEGLIGENCE OR WILFULL MISCONDUCT BY TOXYS OR ITS PERSONNEL.

9 Customer Obligations

1. Customer shall only use the Products at laboratories certified in writing by Toxys to run ToxTracker and/or ToxTracker ACE, meaning after completed on-site installation and validation support by Toxys. Customer shall not use the Products at its locations that have not successfully undergone on-site installation and validation support by Toxys.

2. Customer agrees to store, use and/or otherwise handle Toxys' Products in strict accordance with applicable instructions, warnings and other information in user manuals, Product documentation or as otherwise communicated by Toxys in writing, and only for the purpose of non-clinical toxicological research

3. Customer shall only use the Materials supplied by Toxys in combination with and with the sole

purpose to run ToxTracker and/or ToxTracker ACE and not supply the Materials to Third Parties.

4. Customer shall not resell the Products and neither reverse engineer these. If Customer despite this prohibition generates any data and/or rights of intellectual property regarding the composition of the Product, it shall transfer those data and/or rights to Toxys without any compensation due upon first request of Toxys.

5. Customer has the sole right to use the Products internally and shall not share, resell, transfer or otherwise provide (part of) the Products to Third Parties, nor use the Products to perform research services for third parties.

11 Confidentiality

1. Both Toxys and Customer undertake to observe strict confidentiality with regard to all confidential information they receive from each other. They shall also impose this confidentiality obligation on their employees as well as to third parties who have been contracted by them in connection with any agreement between Toxys and Customer.

2. Information will in any event be regarded as confidential if either Toxys or Customer indicates such information as confidential. For clarity, Toxys' Protocols are considered confidential.

3. The confidentiality obligations referred to in articles 11.1 and 11.2 above shall not apply or cease to apply to information regarding which the receiving party can prove by documentary evidence that:

- (a) it was in the public domain prior to disclosure to the receiving party;
- (b) it was in its possession prior to the disclosure to the receiving party, provided that it was not acquired directly or indirectly from the disclosing party under the condition of confidentiality;
- (c) after disclosure to the receiving party, it became part of the public domain by publication or otherwise through no act or omission of the receiving party;
- (d) prior or after disclosure to the receiving party, it was or has been lawfully provided by a third party who was not under any confidentiality obligation regarding such information.

4. Toxys shall be free to use the anonymized data generated during the performance of the Services to improve and optimize its services to Customers and third parties. However, Toxys shall not in any manner advertise, publish or release for publication any statement referencing or identifying the Customer's compounds and the targets thereof applicable to the Services, unless otherwise agreed upon in writing.

5. Neither party shall use the other's name or that of its affiliates or the names of the other's

employees in any advertising or sales promotional material or in any publication without prior written permission of the other party.

12 Intellectual Property

1. The Products and the Materials used during installation and validation services, as well as the Services, are protected by intellectual property rights belonging to Toxys. The Customer undertakes to respect these rights and to use the Product exclusively as agreed.
2. Upon acceptance of these General Terms and Conditions and full payment of the ordered Products, Toxys grants Customer a non-exclusive, non-transferable, non-sublicensable license to use the Products in conformity with these General Terms and Conditions and the applicable agreement between Toxys and Customer.
3. ToxTracker is a registered trademark owned by Toxys. The Customer agrees not to infringe this trademark and to only use ToxTracker and ToxTracker ACE for the agreed, in-house purposes.
4. Customer acquires the full ownership of the results of the Services to the extent such results do not contain any of Toxys' intellectual property rights.

13 Termination

1. Either Toxys or Customer is entitled to terminate an agreement in place between them with immediate effect and without any judicial intervention being required if:
 - (a) the other party has not, not timely or not properly fulfilled its legal obligations towards the party, and such default can either not be cured or, if curable, has not been cured within fourteen (14) days after receipt of written notice thereof from the other party, all without prejudice to the right of the terminating party to claim the damages it has suffered as a result of the termination of this agreement; or
 - (b) the other party terminates or suspends all or a substantial portion of its business activities, becomes insolvent, admits its inability to pay its debts, or in case of the voluntary or involuntary filing of a petition for or adjudication of bankruptcy of the other party, or in case of the appointment of a receiver, trustee, custodian, or liquidator, or in case of any act or action constituting a general assignment by the other party of its properties and/or interest for the benefit of creditors.
2. The termination of an agreement between Toxys and Customer does not release Customer from any payment obligation regarding any Products delivered by Toxys. t.

3. If an agreement to which these General Terms and Conditions are applicable terminates, the provisions regarding Product warranty, limitation of liability and indemnification (8), confidentiality (11), intellectual property rights (12), termination (13.2 and 13.3) and disputes (14) shall survive termination of these General Terms and Conditions and any related agreement.

14 Miscellaneous

1. If any provision of these General Terms and Conditions, or any other agreement between the parties, is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction, (i) such provision shall be deemed to be restated to reflect as nearly as possible the original meaning of the terms or agreement in accordance with applicable law, and (ii) the remaining terms, provisions, covenants and restrictions shall remain in full force and effect.
2. Toxys will not be liable for any delay in performing or failure to perform any of its obligations under these General Terms and Conditions or any agreement between the parties, caused by events beyond its reasonable control, including, but not limited to, strikes, disturbances, riots, fire, floods severe weather, governmental action or inaction, acts of war, acts of terrorism or sabotage, and the COVID-19 pandemic, including any governmental instructions, guidelines, regulations and/or orders in connection to COVID-Toxys will notify Customer promptly in writing of the reasons for the delay or stoppage (and the likely duration) and will take all reasonable steps to overcome the delay or stoppage.
3. Customer is not permitted to assign, delegate or otherwise transfer any agreement with Toxys or any rights thereunder. Any such attempted assignment, delegation or transfer will be null and void. Toxys is permitted at its sole discretion to assign any agreement or any rights or obligations hereunder to any third party, without giving prior notice.
4. The General Terms and Conditions and any agreement in writing between the parties, contain the entire agreement between Toxys and Customer regarding Customer's purchase of the Products, and supersedes and replaces any previous communications, representations or agreements, or Customer's additional or inconsistent terms, whether oral or written.
5. The failure to exercise, or delay in exercising, a right, power or remedy provided by these General Terms and Conditions, any agreement between the parties, or by law shall not constitute a waiver of that right, power or remedy. If Toxys waives a breach of any provision of these General Terms and Conditions or any agreement between the

parties, this shall not operate as a waiver of a subsequent breach or that provision or as a waiver of a breach of any other provision.

6. Any agreement between the parties is for the sole benefit of the parties thereto and, except as otherwise contemplated therein, nothing therein expressed or implied shall give or be construed to give any person, other than the parties thereto, any legal or equitable rights thereunder.

7. Nothing contained in any agreement between the parties shall be read or construed so as to constitute the relationship of principal and agent or of partnership between the parties. Neither of the parties may pledge or purport to pledge the credit of the other party or make or purport to make any representations, warranties, or undertakings for the other party.

8. Customer acknowledges that Toxys shall suffer irreparable injury in case of breach of the obligations under Articles 11 and 12. Accordingly, in the event of such breach, Customer acknowledges that Toxys will be entitled to injunctive relief in any state or federal court of competent jurisdiction within the State of New York. Customer further submits to the personal jurisdiction of such courts for the purposes of any such action.

15 Governing Law and Arbitration

1. Unless stated otherwise in writing, any and all agreements between the parties shall be governed by and construed in accordance with the laws of the State of New York, notwithstanding conflict of law principles, and without giving effect to the United Nations Convention on the Contracts for the International Sale of Goods.

2. All disputes and controversies arising out of any agreement between the parties or relating to these General Terms and Conditions or the relationship of the parties, shall be finally and bindingly resolved under the International Arbitration Rules of the American Arbitration Association in front of a sole arbitrator. The place of arbitration shall be New York, New York. The language of the arbitration shall be English. Any award, verdict or settlement issued under such arbitration may be entered by any party for order of enforcement by any court of competent jurisdiction. Additionally, in case of unpaid invoices, Toxys may bring suit against Customer for the collection of such invoices in the applicable state or federal courts of New York County, New York, and/or in the jurisdiction in which the Client holds offices. ANY CAUSE OF ACTION AGAINST TOXYS, REGARDLESS WHETHER IN CONTRACT, TORT OR OTHERWISE, MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.