

# sedumdirect

*from The Nursery*

SEDUMDIRECT (20-7-2015)

**GENERAL TERMS AND CONDITIONS OF SALE AND  
DELIVERY SEDUMKWEKERIJ SEDUMDIRECT BV**

## 1. General

1.1. The following terms and conditions apply exclusively to our sales. Other conditions of the buyer in reference to its terms and conditions of sale and/or purchasing conditions are hereby excluded.

## 2. Warranty – product liability – complaints

2.1. The seller warrants that the products are free from defects at the time of delivery and comply with the specifications as published in its documents (subject to misprints).

2.2. If a product is defective or does not comply with the specifications, the seller shall replace the product at its own expense. Liability is limited to the replacement of the product, while the warranty is limited to the delivery of goods free from defects. The seller is not liable for any consequential damage.

2.3. The buyer must inform the seller in writing, by registered letter, within eight days of becoming aware of the defect. If this is not done, the right to replacement of the goods ceases to exist.

2.4. The seller does not warrant that the goods are fit for the purpose that the buyer wishes to use them for, not even if this purpose was communicated to the seller, unless the parties have agreed otherwise in writing.

## 3. Prices

3.1. The prices are exclusive of VAT, transport costs, insurance, import duties, levies, and licence fees unless the offer or contract expressly states otherwise.

3.2. If the buyer does not punctually comply with its payment obligations and also fails to comply with a notice of default with a one-week deadline, the seller is entitled to either demand specific performance of the agreement or to consider the purchase agreement terminated without judicial intervention.

In that case the buyer is liable for the damage suffered by the seller, including but not limited to loss of profits, transport costs, and the costs of giving notice of default.

3.3. If the buyer is in breach of contract and the seller therefore initiates extrajudicial measures, the costs of these measures are the responsibility of the buyer. These costs amount to 15 % of the invoice amount, subject to a minimum of EUR 1,500.00.

## 4. Deliveries

4.1. Sedumkwekerij Sedumdirect BV delivers its products ex nursery. The buyer is responsible for the transport of the products.

4.2. If it is agreed in writing that Sedumdirect BV is to be responsible for transport, the place of destination is the place of delivery, contrary to the provisions of Article 4.1.

4.3. If Sedumkwekerij Sedumdirect BV is responsible for the transport of the products, the transport is carried out by a carrier selected by Sedumkwekerij Sedumdirect BV in the manner that is the most favourable in the opinion of Sedumkwekerij Sedumdirect BV. The risk is at the expense of the buyer.

4.4. If the buyer wishes the products to be transported in a non-customary way, the costs and the risks are the responsibility of the buyer.

4.5. In cases where there is a partial delivery, Sedumdirect BV is entitled to invoice each delivery separately. If Sedumkwekerij Sedumdirect BV exercises this right, each partial delivery is considered a separate transaction.

4.6. Delivery dates are binding only if these have been expressly agreed and confirmed by the seller in writing. The term 'expected' is normally used when stipulating a delivery date in order to indicate the non-binding time factor. No rights can be derived from it.

4.7. Sedumkwekerij Sedumdirect BV dispatches the accepted orders as quickly as possible in the order in which they are received. If a delivery cannot take place on time or at all, the buyer will be informed of this within 30 days after placing the order.

4.8. Deliveries to building sites are made on condition there are usable roads. Unloading and the associated risks are at the client's expense. Waiting times in excess of 30 minutes may be charged separately. Unless expressly agreed otherwise, the buyer is responsible for unloading.

## 5. Delivery periods

5.1. The buyer is obliged to distribute the sedum blankets in the same composition as that in which Sedumdirect BV delivers them to the buyer. The buyer is not entitled to change the composition of the products.

5.2. In connection with the cultivation period of the sedum blankets, Sedumdirect BV shall deliver these products within a maximum of six months.

## 6. Force majeure

6.1. The delivery period referred to in Article 4 is to be extended by the period during which the seller is prevented from complying with its obligations by force majeure.

6.2. Force majeure on the side of the seller exists if the seller, after entering into the purchase agreement, is prevented from complying with its obligations under this agreement or from preparing for them as a result of war, a threat of war, civil war, riots, willful damage, fire, water damage, floods, strikes, factory/office sit-ins, lock-outs, import and export barriers, government measures, machine defects, power cuts, all both in the business of the seller and at third parties, from which the seller must purchase all or part of the required raw and other materials, as well as during storage or transport by the seller itself or otherwise, as well as for all other reasons that arise through no fault of or beyond control of the seller.

6.3. If the delivery is delayed for more than two months due to force majeure, both the seller and the buyer are entitled to consider the agreement terminated. In that case, the seller is entitled only to reimbursement of the costs it has incurred.

## 7. Compliance and transport

7.1. Our delivery obligation is fulfilled as soon as the goods are handed to the carrier. From this moment, all risks are for the client.

7.2. Transport is at the client's risk in any case. Insurance is arranged only after the client gives a specific instruction for this purpose and is at the client's expense.

7.3. If delivery is not taken of the ordered goods, the supplier is entitled to demand fixed compensation of 40 % of the value of the goods insofar as they have not yet been delivered. Once delivered, goods are not taken back.

## 8. Taking delivery

8.1. The client must prove manifest defects, damage caused during transport, insured quantities, and incorrect deliveries. If the client does not do so, delivery of the goods is deemed to have been taken in accordance with the order. Rejected goods may not be incorporated or processed.

## 9. Retention of ownership

9.1. As long as the buyer has not paid the full purchase price and any additional costs, or provided security for that purpose, the seller retains ownership of the goods. In that case, ownership passes to the buyer as soon as the buyer has fulfilled all its obligations towards the seller.

9.2. If the seller has obvious misgivings about the buyer's ability to pay, it may postpone the delivery of the goods until the buyer has provided security for the payment. The buyer is liable for any damage suffered by the seller because of this delayed delivery.

## 10. Termination

10.1. Notwithstanding the provisions of Article 9, the purchase agreement is terminated, without judicial intervention, after a written statement when the buyer is declared bankrupt or put into liquidation, petitions for a provisional moratorium on the payment of debts, if the court grants a request of the seller for the application of statutory debt management scheme for natural persons, or if the buyer loses the power to dispose of its assets or part thereof because of attachment, a guardianship order or otherwise, unless the receiver/guardian or administrator acknowledges the obligations arising from this agreement as an estate debt.

10.2. Termination results in the parties' claims against each other becoming immediately due and payable. The buyer is liable for the damage suffered by the seller, including loss of profits and transport costs.

## 11. Applicable law

11.1. Dutch law applies exclusively to all rights, obligations, offers, orders, and agreements to which these Terms and Conditions apply, as well as to these Terms and Conditions.

11.2. All disputes between the parties are to be submitted exclusively to the competent court in the Netherlands.

## 12. Cancellation of a placed order

12.1. Sedumkwekerij Sedumdirect charges 50 % of the order amount if an order that has already been placed, but not yet delivered to the client, is cancelled.

## 13. Final provisions

13.1. All matters not provided for by these general terms and conditions are to be governed by Dutch law.

13.2. If any part or provision of these general terms and conditions are in conflict with any mandatory legal provision of national or international legislation, that part or provision is to be regarded as not agreed and the Parties continue to be bound by the remainder of these general terms and conditions.

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*from The Nursery*

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