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2008/09 Ecke Flower Fields/Ecke Geranium – Oglevee Products Terms and Conditions of Sale

Paul Ecke Ranch (PER) and Ecke Geraniums, LLC, pride themselves on providing excellent customer service. The following terms and conditions of sale reflect our commitment to satisfying your needs in the most efficient manner possible. If you are unable to find an answer below to your question(s) or issue(s) listed, please contact us and we will be happy to assist you.

1. Pricing

Pricing is effective for weeks 40, 2008 through 39, 2009, for production of finished or blooming plants only.

Pricing stated as price per one invoiced unit (eaches or pots), net to broker.

All prices are F.O.B. point of origin. Tag and royalty will be additive per published rates.

Prices are subject to change without notice.

2. Discounts

Early Order Discount (EOD)

A 5% Early Order Discount is allowed on all Ecke Geranium – Oglevee product rooted liners and unrooted orders received by close of business August 01, 2008. This discount applies to non-quoted orders only.

A 5% Early Order Discount is allowed on all Ecke Flower Fields rooted liner orders received by close of business August 01, 2008. This discount applies to non-quoted orders only.

A 10% Early Order Discount for Ecke Flower Fields unrooted products is allowed on orders received by close of business August 01, 2008. This discount applies to non-quoted orders only. This discount does not apply to published price Ecke Flower Fields New Guinea Impatiens or Generic products.

Volume Discounts

Volume discounts are determined annually at the beginning of the shipping season. Annual volume discount tiers are based on a customer's total purchase volume from the previous season. Royalty and freight are not subject to any discounts.

Additional Discount Conditions

A 2% early pay discount is allowed on product pricing only if paid within ten (10) days of invoice.

No additional discounts are available for Ecke Flower Fields unrooted New Guinea Impatiens or unrooted Ecke Flower Fields Generic products.

Royalty and freight are not subject to any discounts.

Please contact PER Customer Service for specific quote requests.

3. Payment Terms.

For customers with terms, payment is due thirty (30) days from invoice date unless otherwise stated.

For prepay customers, payment is due prior to ship date based on an estimated invoice. Standard terms apply for any balances.

To arrange for credit card payment, please contact Accounts Receivable at: accountsreceivable@eckeranch.com.

All customers will be required to pay interest on any amounts outstanding after the 30-day post-invoice period. Interest on outstanding balances shall be calculated at a rate of 1.5% per month.

4. Licensing / Tags

Some cultivars are available for licensed propagation and stock production. All customers requesting stock cuttings between weeks 18, 2009 and week 39, 2009, will be required to sign a license with Plant Watch. For a complete list of cultivars available for licensing, please contact Ecke Ranch customer service.

Mail license to: Plant Watch
3319 Greenfield Rd #434
Dearborn, MI 48120-1141
Ph: 1-866-414-1141
www.plantwatch.org

Membership in COPF is required for all Canadian shipping address.

Customers in Arizona, California, Florida, New Mexico, and Texas may purchase cuttings any week of the year by certifying an intention to flower only.

PER and/or Ecke Geraniums, LLC, reserve the right to cancel future shipments for customers who have not signed a license and/or who produced stock but reported no royalties for prior year production.

Tags for all products sold are optional. However, the customer agrees that all containers or plants sold and produced shall include proper identification that at a minimum describes the plant patent name, number or PPAF, and states that "Propagation is prohibited".

The system will automatically default to a "yes tag" option and tags will ship with your order. If your customer wishes to not receive tags your order must clearly specify "no tag".

Please allow ten (10) business days on all replacement tag orders.

5. Shipping

For customers with approved credit, freight is prepaid by PER and added to your invoice at line item level, with the exception of Kientzler New Guinea Impatiens and Generic programs.

PER and/or Ecke Geraniums, LLC, shall not be liable for damages or costs arising from the non-delivery or late delivery of goods due to acts of God, riots, insurrection, strikes, labor difficulties, and shortages of material, government regulations, or any other reason beyond our reasonable control.

AIR Shipments:

Customers are advised not to use air shipment for unrooted cuttings within the continental U.S. If this option is selected, a quote must be obtained from PER Customer Service. PER and/or Ecke Geraniums, LLC, is not responsible any damage resulting from flight delays or box heating or freezing that occurs in transit.

No truck delivery service is available from the airport to the customer. Customers are responsible for coordinating shipment pick up with air carriers. Air freight minimums will apply.

Air freight claims must be made by notifying PER Customer Service within forty-eight (48) hours after receipt of shipment. In addition, a written intent to file a claim against the air carrier must be filed within eight (8) days after receipt of shipment.

For quotes on shipments to Europe, Asia, and Africa, please contact PER Traffic at: traffic@eckeranch.com.

Shipping Conditions:

Shipping rates are all inclusive; no additional costs will be applied.

The following variables may prohibit PER and/or Ecke Geraniums, LLC, from delivering your order based on your preferences for mode of transportation, carrier or service level: weather conditions, flight capacity or delay, flight schedules, truck capacity, unavailability of preferred parcel service level to specific zip codes, holiday operation, embargoes or backlog of freight. In the event your preferred carrier cannot be utilized, PER will attempt to provide the best and most reliable alternative service in delivering your orders. This may result in a freight rate higher than noted above. The final routing of your order will be defined one week prior to ship week.

In the event severe weather conditions develop that may affect the quality of your product, PER and/or Ecke Geraniums, LLC, will provide the following options to customers:

- Delaying the shipment for better weather conditions.
- Upgrading the service levels to reduce the time of transit. Customers will be responsible for any additional cost for the new service level.
- Delivery to the nearest parcel service depot. Please contact your broker for the tracking number or refer to our traffic information on-line at: www.eckeglobal.com/EckeTraffic/login.aspx. Customers are responsible for coordinating shipment pick-up with the selected service depot. Claims on damage resulting from unattended shipments at depot locations will not be honored.

Orders must be shipped to a single address and have the same delivery date. Box totals cannot be accumulated over a time period in order to meet minimums. Due to shipping and handling considerations, no combinations of cutting types in a single box are permitted.

Shipping rates are based on quantities of one-hundred (100) cuttings totaling one (1) tray. Numbers of trays per box shipped varies according to product type ordered. Rates are determined by the number of trays shipped at one time.

6. Invoicing

Invoices will be mailed or faxed within five to seven (5 to 7) business days from the Monday of ship week.

7. Claims / Returns

All claims are processed through PER headquarters in Encinitas, California.

All claims must be submitted in writing within eight (8) business days of receipt of the shipment.

Well documented claims greatly assist in PER's prompt processing of each claim. The following documentation is required in order to process a claim:

- a. Purchase order number (when applicable).
- b. Ecke confirmation or invoice number.
- c. Statement describing issue(s).
- d. Quantities listed by varieties.
- e. Date product was received.
- f. Photographs and tag with barcode – required for claims relating to quality and freight damage.
- g. Photograph of box label (red & white) and tray label – required for claims relating to packing issue(s).
- h. Requests for Proof of Delivery must be submitted within sixty (60) days from the ship day. All claims for lost or misdelivered product will be denied after sixty (60) days.

To protect the integrity of our certified production systems, no returns are accepted.

8. Cancellations

Rooted and callused orders canceled **prior** to plant date can be canceled without penalty.

Rooted and callused orders cannot be canceled **after** product has been planted without preapproval by Customer Service. Refer to Ecke Flower Fields or Ecke Geranium-Oglevee products Program Guide(s) for lead times by variety.

Unrooted orders can be canceled no later than six (6) business days prior to ship date.

In the event that an exception is made for cancellations after plant, the order is subject to a \$10.00 per tray restocking fee. Please contact Customer Service for additional information.

9. Warranty

All orders are subject to confirmation by PER and/or Ecke Geraniums, LLC, and crop conditions. PER and/or Ecke Geraniums, LLC, warrant, to the extent of the invoice price, that the plant material is sold as described in this catalog, within recognized tolerances. No further warranty is given, expressed or implied.

PER and/or Ecke Geraniums, LLC, make no other warranty, express or implied, concerning the cuttings, and expressly disclaims any and all other warranties, including any warranty of the merchantability or fitness for customer's particular purpose. Customer's sole and exclusive remedy for any breach of this order agreement, including but not limited to any claim under the warranty in this paragraph, shall be return of the price paid for the affected cuttings. Customer acknowledges and agrees that the maximum liability of PER and/or Ecke Geraniums, LLC, for any claimed breach of the warranty in this paragraph, or for any other claim of defective or non-conforming cuttings, non-delivery or late delivery, or otherwise, shall be limited to the price paid for the affected cuttings. Customer acknowledges that they will not be entitled to recover any other claimed consequential damages.