



AGROECOPOWER LLC GENERAL TERMS AND CONDITIONS  
(Paragraphs headings are for ease of reference only and do not  
form part of this document) valid from 1/1/2021

Company billing information:

**AGROECOPOWER LLC**

**321 EAST 73RD STREET,**

**(3RD FLOOR),**

**NEW YORK, NY 10021**

(hereinafter referred to as "Agroecopower" or "Seller")

## **1. Purpose**

- 1.1. These general terms and conditions govern the rights and obligations of the Seller and the Buyer arising between Agroecopower and the Buyer on the basis of purchase agreements concluded in connection with the sale of goods or services by Agroecopower, in particular the conditions of purchase, delivery, warranty period and other related services. , and to the legal relations arising in connection with the negotiations between Agroecopower and the Buyer, the aim of which is the conclusion of such a purchase agreement (hereinafter also referred to as the "Terms and Conditions").
- 1.2. Agroecopower Terms and Conditions apply exclusively in business relations between legal entities, persons and entrepreneurs.
- 1.3. The provisions contained in the purchase agreement (hereinafter also referred to as the "Agreement") take precedence over the provisions of these Terms and Conditions.



## 2. Definitions

- 2.1. **Terms and Conditions** - a term denoting this document, which regulates the rights and obligations between Agroecopower and the buyer, the wording of these terms and conditions is available at: <https://www.agroecopower.com/terms-and-conditions/>.
- 2.2. **Individual purchase** conditions - a document additionally regulating selected rights and obligations arising from a specific business relationship between the Seller and the Buyer. The General Terms and Conditions are superior to this document and are an integral part of it.
- 2.3. **Buyer** - A person, legal entity, final consumer concluding a purchase contract with Agroecopower or an entity expressing its free will leading to the conclusion of a purchase contract.
- 2.4. **Contract** - the Purchase Contract or any other contractual agreement containing the requisites given by the relevant legislation concluded in writing between Agroecopower and the Buyer.
- 2.5. **Contracting Parties** - joint action of the Buyer and the Seller concluding the Contract.
- 2.6. **Goods** - or also "**Products**" or "**Services**" - movables or intellectual property that may be the subject of a business relationship under these Terms and Conditions.
- 2.7. **Website** - Agroecopower website and online environment - all available under the domain: [www.Agroecopower.com](http://www.Agroecopower.com)
- 2.8. **Price list** - A document containing price documents for individual Products and Services of the Seller, in particular the name of the product and the selling price. This



document is available on request from the Seller and does not form an appendix to these Business Conditions.

- 2.9. **Competent or Authorized person** - A person or legal person who, by virtue of his position in Agroecopower, or on the basis of a contractual relationship with Agroecopower, is authorized to enter into a contractual relationship with the Buyer.
- 2.10. **Order** - an expression of the Buyer's free will to enter into an Agreement with the Seller and containing defined requirements, in particular the precise identification of goods and services provided by Agroecopower.
- 2.11. **Trial period** - a period of time defined by the beginning at the moment of the execution of the contract and the end determined by mutual agreement between the Contracting Parties. The trial period is usually 30 days, unless otherwise agreed. During this period, the Buyer is provided with performance free of charge on the basis of the Order, while leaving a time-limited space to return the completed installation to its technically original condition and terminate the order without the obligation of financial performance by the Buyer.

### 3. Basic provisions

- 3.1 Unless otherwise agreed in writing between Agroecopower and the Buyer, or if the validity of certain provisions of these Terms and Conditions is not excluded in writing, the rights and obligations of the parties are governed by these Terms and Conditions.
- 3.2 Other provisions, contained in particular in the general terms and conditions of business and individual purchase on the part of the Buyer, do not become part of the Contract, even if Agroecopower does not expressly express its disagreement with them.



- 3.3 The Contracting Parties agree that any business practices that are excluded by this provision will not be used for the interpretation of the Agreement or the Business Conditions.

#### **4. Subject of Business**

- 4.1 Agroecopower is a specialist developer, manufacturer and provider of sophisticated software modifications of ECM ("Electronic Control Module") units in the engine system of self-propelled agricultural machinery, especially tractors, combines, forage harvesters, self-propelled sprayers, trucks, handling and construction and the like. The company's products are by nature an intellectual property product. The perceived value of such a product is given subjectively and individually by the Buyer, and for the avoidance of doubt, these Terms and Conditions stipulate unreservedly the fact that it does not depend on the Buyer's own judgment to determine the financial or other material value of the product.
- 4.2 The purpose of Agroecopower products is to make individual and custom software modifications to a machine or vehicle control unit. Agroecopower products are not intended for any other purpose.

#### **5. Contract**

- 5.1 The Buyer is obliged to order, and the Seller has the right to deliver goods and / or services only through a Contract concluded in writing.
- 5.2 For the avoidance of any doubt, an agreement made by e-mail sent from e-mail addresses with the domain: @Agroecopower.com, @Agroecopower.cz or @Xtuning.cz,



but also through any sort of electronic communication with Competent Persons and Persons for this purpose by Agroecopower authorized, is also considered a written form.

- 5.3 The realization of the business relationship according to the conditions agreed through a separate contract or arrangement is subject to these Business Conditions. Any oral orders and agreements, unless confirmed in writing by Agroecopower, are not binding on Agroecopower.
- 5.4 Unless otherwise agreed between the Contracting Parties, each Order must contain legally binding requirements, in particular as set out below:
- a) Full identification of the company or customer; and
  - b) The name of the Buyer's contact person who is authorized to represent the Buyer in connection with the Order and the contact details of this person, in particular telephone and e-mail contact; and
  - c) Identification of the vehicle or machine that is the subject of the software modification, in particular the designation of:
    - Manufacturer; and
    - Model series, type and year of manufacture; and
    - VIN number; or another form of unambiguous and unmistakable identification of the machine in such a way as to avoid any doubt or confusion (for example, a photograph of the identification tag); and
  - d) billing address / resp. the address of the realization.
- 5.5 The Buyer, who is a legal entity and who concludes its first Contract, is obliged to attach a copy of the active and valid authorization to conduct its business, or a valid extract from the Commercial Register not older than 3 months, and the Buyer's consent to the contents of these Terms and Conditions, confirming that these Business Terms and Conditions will be further applied to other Agreements concluded between the Buyer and Agroecopower.



## 6. Order acceptance

- 6.1 Unless the Contracting Parties agree otherwise, each Order must be confirmed (accepted) in writing by Agroecopower no later than five (5) working days or Agroecopower will notify the Buyer within this period of the date on which the Order will be confirmed, otherwise it expires.
- 6.2 Acceptance of the Order will be made by Agroecopower in writing. Delivery of acceptance by e-mail to the Buyer's e-mail address specified in the Order or on the basis of any type of recordable electronic correspondence is also considered a written confirmation.
- 6.3 The Order is a proposal for the conclusion of the Agreement, the unconditional acceptance of which by Agroecopower concludes the Purchase Agreement. Agroecopower undertakes to deliver to the Buyer the agreed and defined subject in the Contract and the Buyer undertakes to take over the subject and pay the agreed price.
- 6.4 If Agroecopower acceptance deviates from the order, the Buyer shall be deemed to agree to the proposed changes if:
- a) The Buyer send a written confirmation to Agroecopower stating its consent to the acceptance of the amended offer made by Agroecopower; or
  - b) The Buyer shall not reject the amended offer of Agroecopower in writing within three (3) working days from the date of its delivery; or
  - c) The Buyer pays the agreed purchase price or part thereof for the delivered goods and / or services provided; or
  - d) The buyer takes over the ordered Goods and/or Services in the form of a realized order.



## 7. Prices, billing and payment

- 7.1 The price for the Goods and/or Services specified in the Contract is a fixed and binding price (hereinafter referred to as the “Purchase Price”). The Purchase Price will be invoiced by Agroecopower on the basis of conditions agreed with the Buyer, mutually and in writing in the form of an agreed Price List, confirmed Delivery Notes and/or Handover Protocols. All information in this sense may be the content of one combined document.
- 7.2 The Buyer shall pay the Purchase Price on the basis of a tax document - invoice. The agreed Purchase Price may be changed only by written agreement of the Contracting Parties. The tax document must meet all the requirements required by law and must contain a variable number or other unique identification of the order (internal Partner System ID)
- 7.3 Unless stated in the Contract or agreed otherwise, the Purchase Price is payable:
- a) At the moment of completion of the realized order and payment by check
  - b) Within fourteen (14) days from the tax document (invoice) issue date
  - c) If an agreement on a Trial Period is concluded between both Contracting Parties (a model of "SOR contract" is an annex to these Terms and Conditions), both payment options may be postponed in time, but not longer than the agreed Trial Period.
- 7.4 The Buyer is obliged to pay the Purchase Price according to the duly issued tax document (invoice) specified in the Contract, either:
- a) Transfer to the bank account of Agroecopower, specified in the Agreement or on the tax document (invoice); or
  - b) Payment in cash upon receipt of the goods and / or provision of the service; or
  - c) Payment by bank check issued, including all legislative requirements



d) Payment made before the service was provided on the basis of an advance invoice; issued by Agroecopower on the basis of the Order; in such a case, the service will be provided to the buyer no earlier than when the relevant amount will be credited to Agroecopower bank account, unless the parties agree otherwise.

7.5 Payment cannot be made by payment card (VISA / MasterCard / American Express, etc.), nor through payment platforms such as PayPal, Apple Pay and others.

7.6 Costs associated with transport, handling, installation, professional consultation, resp. with other services provided by Agroecopower for the Buyer (hereinafter referred to as "Costs associated with the sale"), are not included in the Purchase Price of the Goods and Services; these will be paid by the Buyer to Agroecopower in the amount specified in the Purchase Agreement, or within the item list stated on the tax document, unless the Contracting Parties agree otherwise. The costs associated with the sale will be billed and invoiced by Agroecopower together with the Purchase Price.

## **8. Terms of delivery**

8.1 Agroecopower supplies its products in the United States and Canada. The Seller is Agroecopower, the place of implementation is the Buyer's address, or another address designated by the Buyer.

8.2 The costs associated with the delivery of ordered products through the Contract to the Buyer depend on the place of execution and the nature of the order, especially on the scope and complexity of the executed Order. Based on this, Agroecopower reserves the right to quantify transport and handling costs individually according to the nature of the specific business case in the form of a "Service Fee".





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- 8.3 The date of delivery of services provided by the Seller is entirely subject to the capacity and technical capabilities of Agroecopower. In this respect, Agroecopower does not bear any responsibility for any delay, mainly due to the completion of the order or technical preparation before implementation. However, Agroecopower also declares that it will make sufficient efforts to minimize the risk of such delay and will inform the Buyer without delay in the event of a risk of delay.
- 8.4 Ownership, as well as other property rights to Goods and Services, passes to the Buyer on the day of full payment of the Purchase Price. Risk of damage to the Goods, the ECM unit, resp. on other parts of the vehicle or machine, passes to the Buyer at the same time.
- 8.5 Agroecopower provides a 24-month warranty on its own Products. At the same time, however, it declares, and the Buyer is aware and fully accepts through a binding Order, that the provided software modifications may affect the subsequent behavior and operability of the machine, all circumstances being fully within the competence of the Buyer and the Seller bears no responsibility in this regard, and it in full.
- 8.6 The period for delivery of Goods and/or provision of Services is extended by the time for which the Buyer is in delay with handing over the agreed documents to Agroecopower, in particular with providing information on the machine or vehicle that is the subject of the Order; if the Buyer is in arrears with the payment of the agreed Purchase Price or the billed advance on the Purchase Price, or in arrears with the payment of overdue receivables from Agroecopower due to already concluded and Purchase Agreements with already realized Order subjects.
- 8.7 In the event that the Buyer refuses to take over the Goods and/or Services without reason, Agroecopower is entitled to demand payment of a contractual penalty in the amount of 20% of the agreed Purchase Price, plus the amount necessary to cover



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transport and other related costs. This does not affect Agroecopower right to payment of the Purchase Price.

- 8.8 The Buyer is obliged to check the condition of the machine immediately after the implementation of the software modification, especially the operability and full functionality with regard to the age and technical condition of the vehicle before the actual implementation of the modification. The Buyer is entitled to refuse to accept the modification of the machine control unit, which is not in accordance with the Contract, with the proviso that the implemented modification does not meet expectations or does not bring the required effect to the Buyer. In such a case, the Buyer is entitled to request the return of the machine to its original state. At the same time, Agroecopower declares that the restoration will take place in such a way as to ensure all the characteristics and operability of the machine identical to the condition of the machine at the time of its acceptance in the moment before the actual implementation of the software modification.
- 8.9 Agroecopower reserves the right to refuse to execute the Order if the machine in question, based on the results of input diagnostics, does not meet the technical parameters required for error-free software modification, but mainly due to objective non-compliance with technical parameters necessary for error-free machine operation after modification. Agroecopower hereby declares that the Buyer will be duly notified of this situation. In such a case, the Contract, which will be terminated, will not be fulfilled and neither of the Contracting Parties will be entitled to any financial compensation.
- 8.10 Agroecopower reserves the right to refuse to execute the Order in the event that the machine in question, based on the results of the input diagnostics, shows parameters identical to:



- a) a software modification of the ECM unit by another company has already been performed on the machine; or
- b) the machine has been modified by the Buyer, or such parts and components have been used in the repair or modification of the engine system that are different in nature from the parts standardly used by the manufacturer for the given model type of machine by default.

8.11 In the case of a sudden change in machine operation or in the case of a machine failure with the possibility of the relation to realized modification (for example, transition of the machine to emergency mode (deration) or signaling of an error message indicating the affected engine components), this must be notified immediately by e-mail to [info@Agroecopower.com](mailto:info@Agroecopower.com) or by contacting the Agroecopower representative. The Buyer is obliged to always write a Damage Report (hereinafter referred to as the "Report") and deliver it without undue delay to the e-mail address, or in any way hand it over to the Authorized Person of Agroecopower. The protocol is an integral part of reporting such a failure, and the Buyer is obliged to provide all relevant information, in particular:

- a) Manufacturer, model and type of the machine or vehicle
- b) VIN designation of the machine / photograph of the machine identification tag
- c) A copy of the invoice with the visible variable order number
- d) A verbal description of the fault with all the information used to identify the fault
- e) Photo documentation illustrating the nature of the fault, in particular photographs of the error message or codes, warning symbols on the instrument panel, demonstration of non-standard behavior of the exhaust system - for example, smoke color and the like.
- f) Video/Audio recording - illustrating non-standard behavior of the machine and engine operation.



- 8.12 Agroecopower declares that all data and information provided in the Protocol will be used only for the purpose of ascertaining the facts, in particular to make sufficient efforts to resolve such failure.
- 8.13 Agroecopower reserves the right to refuse to be liable for a detected and reported machine failure if it is objectively demonstrated that the software modification implemented in the ECM unit has no relevant connection with the machine failure.
- 8.14 The reported failure or additional complaint does not deprive the Buyer of the right to complain about the subject of the Agreement and gives the Seller the opportunity to prove that this is not a conflict with the Purchase Agreement.

## **9. Rollback**

- 9.1 The Buyer is entitled to withdraw from the Contract and request the return of the machine to its original condition within 30 days from the date of receipt of the installation, but Agroecopower reserves the right to decide on the possibility of returning the Services, especially due to the nature and technical complexity of the installation.
- 9.2 The right to withdraw from the Contract does not apply to the provided software modification, serving the individual and specific needs of the Buyer, especially those as a result of which the Buyer has made other subsequent technical or mechanical modifications to the machine. Agroecopower hereby declares that the Buyer will be sufficiently informed of this fact before the actual implementation of the software modification and will require informed consent from the Buyer for the subsequent implementation of the Order.



- 9.3 In the event of the Buyer's withdrawal from the Contract, the Buyer shall pay the costs of transport and all necessary handling at the place of implementation, or any other related costs of the Seller with the return of the machine before the installation. Agroecopower will inform the Buyer in good time about the estimated quantification of these costs and the Buyer undertakes to confirm this financial compensation in writing no later than 2 days before the agreed date for the return of the software modification to its original state.
- 9.4 In the event that the Buyer withdraws from the Contract, the Seller is entitled to demand a cancellation fee of 20% of the agreed Purchase Price.

## **10. Liability for defects**

- 10.1 Agroecopower is responsible for ensuring that the software modification Services provided are in accordance with the Agreement and that these Services are free from any legal or factual defects and are not subject to any financial, banking, accounting, customs or other obligations arising from the nature of the matter.
- 10.2 The buyer is obliged to inspect the affected machine immediately after taking over the installation and make sure of the nature of the new software, including any change in behavior, new technical features and different engine operation requiring a change of driver's approach and habits to achieve maximum effect of software adjustments. In this regard, Agroecopower will provide the Buyer with all necessary accompanying information, including any professional training of the machine operator and the submission of accompanying documentation via the "Maintenance Protocol" (if needed), which is attached to these Terms and Conditions. The price for machine operator training is already part of the Purchase Price.



- 10.3 In the case that Agroecopower is unable to repair the software modification or replace the Service with a new Service, Agroecopower will issue a credit note for the value of defective or undelivered subject, which will reduce the Purchase Price or its proportion, unless there is financial settlement between Buyer and Seller or agreed otherwise.
- 10.4 If Agroecopower incurs liability for damage, it is liable to the Buyer only for damage to the delivered Services, up to the maximum amount of the Purchase Price of the delivered performance of the Order. Agroecopower is not responsible for lost profits of the Buyer or third parties.
- 10.5 Agroecopower provides a warranty for the implemented software modification for a period of 24 months from the date of receipt by the Buyer. Agroecopower hereby also undertakes that in the event of loss of software modification on the part of the Buyer, for any reason (especially by restoring the ECM unit to its original condition), Agroecopower will provide repeated Service, even after the warranty period provided by the Seller. The price for repeated performance is governed by the valid Agroecopower Price List.
- 10.6 The guarantee for the quality of the implemented software modification does not apply to defects caused by:
- a) as a result of the case of the modification used for an inappropriate purpose; or
  - b) as a result of inappropriate or unprofessional intervention in the software modification; or
  - c) as a result of any unauthorized changes, modifications and repairs to the machine not approved by Agroecopower directly related to the software modification and its effect on the behavior of the machine; or
  - d) as a result of changes, modifications and repairs to the supplied software modification made by a person or company other than Agroecopower authorized person for this purpose; or



e) due to damage to the ECM unit due to improper handling, damage to a third party or unavoidable events.

10.7 The right to claim defects under the quality guarantee expires if the Buyer is unable to prove that the software modification was carried out by Agroecopower.

10.8 The Buyer undertakes to provide Agroecopower with full cooperation in resolving defects and complaints related to price, implementation or qualitative aspects of the contractual performance on the basis of the concluded Purchase Agreement.

## **11. Pre-contractual liability**

11.1. The Buyer declares that he is aware that Agroecopower is negotiating the Purchase Agreement freely and is not responsible for not concluding it, thus excluding Agroecopower pre-contractual liability.

## **12. Force majeure**

12.1. Force majeure means extraordinary circumstances preventing Agroecopower from fulfilling its obligations under the Purchase Agreement, which occurred independently of Agroecopower will and could not be averted by Agroecopower or its agents. If circumstances of force majeure arise and thus prevent Agroecopower from fulfilling its contractual obligations, Agroecopower has the exclusive right to reasonably extend the delivery times of the delivery of its services or to withdraw from the Purchase Agreement, in both cases without obligation to compensate the Buyer.



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### 13. Final provisions

- 13.1. Agroecopower is entitled to unilaterally change these Terms and Conditions. Any such change shall be published without undue delay by reference to: <https://www.agroecopower.com/terms-and-conditions/> at least three (3) days before they take effect. The change of business conditions by the Buyer will be accepted by the making of any Order by the Buyer after the new Business Conditions have come into force.
- 13.2. Agroecopower undertakes to handle the Buyer's personal data in full compliance with the relevant provisions of all legislative regulations related to the protection of personal data. Detailed information on the accepted privacy policy is available on the Website here: <https://www.agroecopower.com/protection-of-personal-data/>
- 13.3. Should any individual provision of these Terms and Conditions be invalid, the remaining provisions of the Terms and Conditions shall remain unaffected. In the case of all Purchase Agreements, they are subject to the Business Conditions valid at the time of their agreement.
- 13.4. Agroecopower and the Buyer undertake to take all measures available to them to prevent damage and to keep any damage to a minimum.
- 13.5. Agroecopower is entitled to transfer any of its rights or obligations under the Agreement to a third party without the prior written consent of the Buyer, including the right of Agroecopower to assign its claims against the Buyer under the Agreement to a third party.
- 13.6. Agroecopower is entitled to set off any receivables from the Buyer against the Buyer's receivables from Agroecopower.





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- 13.7. Buyer acknowledges and agrees that in the event that any provision of these Terms is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, in any respect to the validity, legality and / or enforceability of the remaining Terms, these Terms will be applied and not be affected or disrupted in any way. At the same time, in such a case, the parties agreed that such invalid conditions will be validly reformulated by the court so as to be as close as possible to the intentions of both Contracting Parties. If they are unreformable, they will be separated and removed from these conditions. Failure by Agroecopower to exercise or enforce any right or provision of these Terms shall not constitute a waiver unless Agroecopower agrees in writing.
- 13.8. Agroecopower hereby informs all Buyers that in the event of any conflicts arising in the Contractual Relationship between Agroecopower and the Buyer, Agroecopower is entitled to request an out-of-court settlement.
- 13.9. Agroecopower is the operator of the website at: [www.agroecopower.com](http://www.agroecopower.com). The user of this website understands that the use of this website and the information contained in it is at his own risk and responsibility. Agroecopower reserves the right to disclaim any responsibility for false or incomplete information. Agroecopower does not warrant that the Website will provide continuous, and in all circumstances true, content, particularly in the context of misleading, unintentional errors or typos caused by human error. Agroecopower hereby declares that it will make reasonable efforts to constantly review and keep its Website up to date but is not liable for any damages or losses caused by inaccuracies in the content.
- 13.10. Agroecopower is not liable for damages caused by any viruses or other programs with the nature and ability to affect the operation of a connected computer, mobile phone or other device. At the same time, Agroecopower states that it makes sufficient efforts



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to prevent the existence of such harmful content, which, however, does not explicitly exclude such content.

- 13.11. The conclusion of the Purchase Agreement is a complete expression of the consent of the parties with regard to the subject of these Business Conditions and replaces all previous agreements and arrangements between the Contracting Parties with regard to the content of these Business Conditions. In order for any possible individual change to be binding, it must be made in writing, including the signature of the competent persons of both Contracting Parties.
- 13.12. By concluding the Contract, the Buyer confirms and declares that he has read these Business Terms and Conditions in detail and that he agrees with all provisions of the Business Terms and Conditions without reservations.
- 13.13. These terms and conditions, as amended, came into force on 1/1/2021.

Jakub Klobása  
CEO

Appendix A – Damage Protocol  
Appendix B – Maintenance Guidelines  
Appendix C – SOR Contract