

EcuTek Tuner Agreement

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Version 10

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Table of Contents

1	Introduction	3
2	EcuTek Sales & Support	4
3	Dealer Skills	5
4	Marketing and the use of EcuTek Product Names & Trademarks.....	6
5	Trading	8
6	EcuTek Reseller Listing.....	9
7	Exclusivity	9
8	Regional Restrictions	9
9	Confidentiality.....	9
10	Programming & Flash License Information	10
11	Software System Requirements	10
12	Software Licensing Agreement.....	11
13	Forms.....	15
14	EcuTek Contact Information	16
15	EcuTek Tuner Agreement	17

1 Introduction

This document details the terms and conditions to which EcuTek Tuners must adhere. It also contains some of the 'finer details' about EcuTek's products, over and above the information provided in the EcuTek Product Information Pack.

Sections of this document detail the pre-requisites to becoming an EcuTek Tuner, the service that Tuners can expect from EcuTek, as well as commitments that the Tuner needs to make to EcuTek and its customers.

The language used in this document is plain, frank and 'to the point', with the minimum of jargon, legal or otherwise. This is to get important points across clearly, regardless of the reader's prior experience of EcuTek or exposure to the tuning industry. This document aims to cover scenarios and situations experienced by EcuTek over the past 10 years. This is with a view to treating resellers and customers fairly, whilst building successful long term relationships that are beneficial to EcuTek, its Tuners and customers alike.

This document is confidential. If you have been sent this document, then it is for your eyes only, and may not be passed on (in any form) to another person or published, without express permission from EcuTek.

2 EcuTek Sales & Support

2.1 Web Ordering

Where possible, you will be expected to use EcuTek's online ordering system when trading with EcuTek. This provides the fastest service for you and your customers. It also frees up EcuTek staff to deal with support enquiries that really need their prompt 'human' attention.

2.2 Email

As an EcuTek Reseller, we respectfully request that you use email as your primary method of communication with EcuTek for tuning and product support. This allows EcuTek to pass the enquiry onto the correct member of staff, along with any files necessary to reproduce a problem or situation. In order to reproduce and fix problems, or to provide tuning assistance, you will be asked for software versions, screenshots, log files and ROM files, which you can only provide via email.

2.3 ROM Turnaround Time

EcuTek aim to add support for newly released vehicles and calibrations as soon as possible. We aim to support new calibration revisions within 7 days from the date that you provide us with all the information that is required to do this.

In the situation where the ECU is different from previous versions in ways other than just calibration data (such as the manufacturer changing programming protocols or chip revisions within the ECU), then we are unable to guarantee a turnaround time.

2.3.1 Customer Tuning Shop Visits

To save yourself stress, and to save your customers a wasted journey if they are travelling a great distance, it is always worth checking with the customer as to the ECU revision that their vehicle contains **before** the customer is due to visit. If your customer travels 300 miles and arrives at your tuning shop with an ECU that is not currently supported, then you are going to have a difficult situation to deal with. Please plan accordingly, so this situation does not arise.

Remember that you can suggest to your customer that they purchase ProECU from an EcuTek Master Tuner. They can then check that their vehicle is supported before visiting. Alternatively, you can even tune their vehicle remotely.

2.4 Product Updates – EcuTek Update

All software and ROM file updates from EcuTek are provided using EcuTek Update. This is EcuTek's online software update system, accessible from the help menu of all EcuTek software. For this reason, it is essential that all users of EcuTek software have a reliable Internet connection available for all PCs that they wish to use.

3 Dealer Skills

3.1 Tuning Skills

EcuTek Tuners and Master Tuners are expected to be highly capable and experienced engine tuners. This is a prerequisite of becoming an EcuTek reseller. EcuTek is here to provide the tools for you to do your job, but we don't tune the vehicles for you.

3.2 Computer Skills

EcuTek Tuners, Sub-dealers and Master Tuners are expected to be highly competent computer users. Emails, PDFs, zipping and unzipping files, writing documents, following written instructions and taking screenshots for example, should be very simple tasks for you. Whilst these skills may often be taken for granted, it must be stressed that these skills are also a prerequisite of becoming an EcuTek Tuner.

3.3 Wiring Skills

Whilst EcuTek aim to provide tuning tools which allow a complete tuning solution by simply plugging into a vehicle's diagnostic socket, special situations may arise. In these circumstances, it may be necessary to do some basic vehicle electrical wiring in order to resolve a problem. As an EcuTek Tuner, you are expected to have the skills, as well as the tools and materials available to complete such tasks. Examples include:

- Wiring a diagnostic connector onto an existing wiring loom
- Testing continuity of wiring from ECU to diagnostic connector, in order to confirm pin-out.

Where you are unable to fulfil this requirement but programming (or recovery) of an ECU requires this work, you may ship the ECU to EcuTek. EcuTek will do this work for you. However, you will be charged for this, plus any shipping costs incurred.

4 Marketing and the use of EcuTek Product Names & Trademarks

4.1 Product Names and Trademarks

When representing, advertising or promoting EcuTek products, the use of the following terms must be considered. Coherent use of these terms will convey a professional marketing approach to customers. Incoherent use of these terms would convey a lack of understanding to the informed customer and should be avoided at all times.

4.1.1 EcuTek

EcuTek is a trademark of EcuTek Technologies Limited. Its use must refer to EcuTek as a Company. EcuTek is not a product – it is the manufacturer. You may refer to ‘the EcuTek ProECU Programming Kit’ for example. Do not refer to ‘the EcuTek’ – this is incorrect usage of the word. Treat it as an adjective rather a noun. I.e. ‘the EcuTek <product-name>’ is correct usage.

4.1.2 ProECU

ProECU is used to describe a range of ECU related tools, supplied by EcuTek. For example, you may refer to ‘the ProECU Programming Kit’ or ‘ProECU Tools include the following...’. However, do not refer to ‘the ProECU’ – this is incorrect usage of the word. Treat ProECU as an adjective rather than a noun.

4.1.3 ProECU Programming Kit

If you market the ProECU Programming Kit, please use this product name exactly. This allows the customer to ‘tie up’ details of the products on EcuTek’s web site and documentation, with the products shown in your company marketing materials; i.e. do not alter the name in ways such as ‘ProECU Tuning Kit’ or ‘ProECU Tuning & Diagnostics Kit’, as this will only confuse the customer as to exactly what it is that they are buying.

4.2 Marketing Approaches

You must market EcuTek products using one of the three approaches below:

4.2.1 Marketing EcuTek Products ‘as is’

The simplest way in which to market EcuTek products is by using their standard product names. This makes it easy for the customer to understand exactly what they are buying, as full details of all products are detailed on the EcuTek Web Site. When using this approach, you should use EcuTek product names exactly as they are used on the EcuTek Web Site.

4.2.2 Marketing EcuTek Products Using Other Names – Re-Badging

If you wish to use a different name for your product when reselling (or bundling) EcuTek’s products, then this is fine. EcuTek class this method of reselling as a ‘re-badging’ of EcuTek’s products. However if you do this, you may not use the trademark ‘EcuTek’ or the product range name ‘ProECU’ in your product name. This is because it will then not be possible for the customer to locate these ‘supposed’ EcuTek products in EcuTek’s marketing materials or Web Site.

4.2.3 Marketing your Products ‘in association with’ EcuTek

If you choose to create a product that incorporates an EcuTek product, then your product must not include an EcuTek trademark or product name in its name. However, you may wish to mention that your product uses EcuTek tools, in which case it is perfectly acceptable to state this. If you do not state this, then EcuTek class the marketing as Re-Badging, which is also acceptable and is detailed above.

4.3 Internet Domain Names

You may not use an EcuTek product name or trademark as an internet domain name without written consent from EcuTek. This is to ensure that customers are not misled into visiting a web site that they believe to be an official EcuTek web site, as opposed to the web site of a trade customer of EcuTek. You may however create a sub-domain of your own company's web site in order to market EcuTek products.

4.4 Marketing Examples – DOs and DON'Ts

In these examples, we consider a fictitious EcuTek Master Tuner called EMT Tuning.

This Tuner intends to resell ProECU Programming Kits along with their Turbo conversion kits.

The following are some examples that are, and are not acceptable methods of marketing:

Example	Acceptable?	Comment
Web Site URL		
www.proecu.net	NO	Cannot use EcuTek product names as web sites. It is not clear that the site does not belong to EcuTek.
www.ecutek.xyz	NO	Cannot use EcuTek trademark as web sites domain name. It is not clear that the site does not belong to EcuTek.
www.EMT-Tuning.net/ProECU	YES	It is clear that the web site belongs to EMT Tuning.
www.proecu.EMT-Tuning.net	YES	It is clear that the web site belongs to EMT Tuning.
Product Name		
EMT ProECU Kit	NO	Resellers must not use EcuTek product names as part of their product names
EMT PowerUp Kit	YES	Product name does not include EcuTek or its product names at all - this is Re-Badging.
EMT PowerUp Kit - incorporating EcuTek	NO	Incorrect usage of the trademark EcuTek.
EMT PowerUp Kit - incorporating the EcuTek ProECU Programming Kit	YES	Product name does not include EcuTek or its product names. However product promotional materials properly reference the name of an EcuTek Product – this is marketing 'in association with' EcuTek.

5 Trading

5.1 Payment Terms

Standard terms are 'payment with order'.

After trading with EcuTek for at least 6 months, if a significant and regular volume of sales are reached, then the customer may apply for an account. Email accounts@ecutek.com for more information.

5.2 Online Ordering

Payment for online web ordering must be done using Visa or MasterCard. All non-account customers must pay using this method.

5.3 Credit Card Payments

Due to Data Protection restrictions and Payment Card Industry Data Security Standards (PCI DSS), we cannot store credit card details for customers. For this reason, all customers must make their purchases via the EcuTek Web Store.

5.4 Account Payments & EcuTek Bank Account Details

Settlement of accounts must be done via bank transfer. To notify EcuTek of any bank transfers made, please fill out the form at <http://www.ecutek.com/forms/bank>. Details of EcuTek's bank account are shown on this web based form. Settlement of accounts by credit or debit card is not supported.

6 EcuTek Reseller Listing

To remain on the EcuTek web site, Tuners must continue to trade with EcuTek on an ongoing basis. Active dealers are automatically displayed on EcuTek's web site. Inactive dealers are automatically removed. This is to ensure that the retail customer only sees active resellers who currently use and/or resell EcuTek products. Currently, Tuners must have purchased a Flash Fee in the last 9 months, in order to be listed on the web site (this period is subject to change without notice). If your company drops off the dealer listing, simply make a Flash Fee purchase to renew your entry.

7 Exclusivity

No new exclusivity or restrictive agreements will be entered into by EcuTek. The only exceptions are the regional restrictions listed in the next section.

8 Regional Restrictions

For reasons of language and time zone, certain parts of the world are handled by regional distributors. These distributors promote the brand and handle all support for these regions. These regions are as follows:

- Australia – MRT Performance
- Japan – EcuTek Japan

Any applications made to EcuTek to become an EcuTek Tuner in these regions will be passed to the regional distributor.

It is not permissible for EcuTek Tuners or Master Tuners to sell to retail customers or setup sub-dealers in these regions unless the products are being purchased through the regional distributor. If there is any doubt as to whether a sale is permissible, you must contact EcuTek for written permission before proceeding.

EcuTek reserve the right to appoint other regional distributors in the future in order to promote wider acceptance of the product and better support of its customers.

9 Confidentiality

You must not publish any information that has been given to you 'as an EcuTek Tuner' without the express permission of EcuTek. This includes email correspondence, newsletters and private web site areas. This information includes text, videos, screenshots and software. For example:

- You must not post excerpts of confidential trade newsletters on web forums, no matter whether the intent is to promote EcuTek or yourself.
- You must not disclose details of upcoming products that have not yet been released. It is EcuTek's prerogative to do a press release at a time of our choosing.

10 Programming, Flash Fee and Flash Point Information

ProECU Tools can read or make a backup of the original ECU data before programming (with certain exceptions on some ECU types and due to compatibility with some competitors' products).

ProECU Tools can return a modified ECU to standard by programming a standard ROM back into the ECU.

When ProECU programs and ECU for the first time it will require the correct number of Flash Points to be on the dongle. Flash Points can be purchased in our webstore. If the correct number of points are present, ProECU will place a licence inside the ECU. Once inside, that licence remains in the ECU and cannot be transferred to another ECU. Licences can be completely removed from the ECU if required though the licence will be lost (with exceptions on certain ECU types) and if the ECU is programmed again with ProECU it will consume the relevant number of Flash Points to place the licence in the ECU again.

One ProECU Programming Kit can be used to tune multiple vehicles. This works out far cheaper than other 'One box per vehicle' tuning solutions.

11 Software System Requirements

If you intend to install EcuTek ProECU tools, then you must ensure that your PC meets the following basic requirements:

- EcuTek ProECU Tools will require an Intel based PC, running Microsoft Windows.
- Windows 7 and Windows 8 are recommended, though Windows XP and Windows Vista are also supported. Both 32-bit and 64-bit versions of Windows are supported. (Windows 8 RT is NOT supported)
- 2 Free USB Ports; 1 for the Licence Key and 1 for the EcuTek Vehicle Interface
- Minimum RAM: 1GB
- Minimum Screen Resolution: 1024x768
- Native Apple Mac based ProECU software is not available. However, the use of Windows running natively under Boot Camp on an Apple x86 based machine is supported.
- The use of PC emulators or virtualisation software is not supported, including, but not limited to:
 - VMware
 - VirtualBox
 - Parallels
 - Hyper-V
- Reliable Internet access is required and essential, in order to receive the regular software and ROM file updates. EcuTek does not provide software by post on CD, by email or memory stick.

12 Software Licensing Agreement

We reserve the right to cancel any and all relationships with any dealer whose actions damage the reputation of EcuTek or any of its products. The software is licensed to the dealer, not sold to the dealer. In this situation, the licence to use the software will be revoked.

Any attempt to reverse-engineer or circumvent the product licensing agreement will result in immediate revocation of the licence to use the software. It may also result in civil or criminal prosecution.

All software (except that included in the ProECU Programming Kit) is licensed to the individual, and may not be lent to a third party for any reason. Contravening this will result in revocation of the licence to use the software.

WARNING: Each copy of software is individually built for each EcuTek customer. If a hacked version of EcuTek software appears on the Internet, EcuTek will be able to identify and prove the customer who has hacked their software build. This makes it straightforward for EcuTek to take action against such customers.

12.1 Definitions

"EcuTek ProECU" is defined as including the vehicle interface cable, hardware licence key, software and documentation.

"The RaceROM Feature File" is defined as the binary code and data developed by EcuTek that is applied to an ECU ROM file before that ROM is programmed into a vehicle ECU.

"The Product" is defined as including EcuTek Software, RaceROM Feature Files, Vehicle Interface Cable, and Hardware Licence key.

"EcuTek Proprietary Technology" is defined as including The Product and technical details regarding its operation, processes, algorithms or procedures.

12.2 Copyright

Copyright laws and international copyright treaties, as well as other intellectual property laws and treaties protect EcuTek Proprietary Technology.

The Product is licensed, not sold.

12.3 Grant of Licence

You may install and use the EcuTek Software on any computers belonging to you or your employer.

Due to the nature of the hardware licence key, only one copy of EcuTek Software can be active at any time.

You may use EcuTek Software to install Tuned ROM files (including RaceROM Feature Files) into as many vehicle ECUs as you wish. In order to install a tuned ROM file in an ECU that has not been previously tuned with EcuTek, you will require the appropriate number of Flash Points on your Licence key (Dongle). Flash Points can be purchased in our webstore. If the ECU has previously programmed with ProECU, it will not consume any Flash Points when programming.

You may download and update EcuTek Software via the EcuTek Update system.

You should contact your supplying EcuTek distributor to assist you with any problems that you have regarding The Product.

12.4 Limitations of Use

You shall not dump, decrypt, disassemble, decompile, debug, analyse, modify or otherwise reverse-engineer The Product, or any vehicle ECU, or data file containing a RaceROM Feature File.

You shall not tamper with, deactivate, disable, or attempt to bypass, any security or licensing features that may exist within The Product.

You shall not open any binary file containing a RaceROM Feature File using competitor products, or other software not directly supplied by EcuTek.

You shall not make available any EcuTek Proprietary Technology to a third party without the express written permission of EcuTek. This also includes uploading it to internet sites or permitting others to download it via the internet.

You shall not loan, lease or rent The Product to anyone.

You shall not divulge to a third party, any information about the vehicle ECU maps or data that you learn through using The Product. Nor may you use such information to create, develop or improve your own competing products or those of EcuTek's competitors. We have expended considerable effort to find this information and regard it as a trade secret.

Any software updates or data files subsequently supplied by EcuTek in relation to The Product are covered by the terms and conditions specified in this agreement.

The initial user is not permitted to transfer The Product to another user.

You agree to only permit competent employees (experienced in engine management tuning) to have access to EcuTek Software.

You agree to regularly update the EcuTek Software installed on your computers. EcuTek only support the latest version of the EcuTek Software and may be unable to provide you with assistance for outdated versions.

EcuTek reserve the right to discontinue compatibility between the Product and obsolete Operating Systems or Computer hardware that is no longer produced or supported by its manufacturer.

You may not use The Product for any purposes that may damage the reputation of EcuTek or the vehicle manufacturer and their respective products. Perform all tuning in a responsible and ethical manner.

EcuTek may terminate this licence agreement if you fail to comply with the terms and conditions of this agreement. In such event, you will be required to destroy all copies of software and return all hardware components of the package to EcuTek.

12.5 Ownership

All title and intellectual property rights in and to The Product are owned by EcuTek.

All title and intellectual property rights in and to the content which may be accessed through use of The Product is the property of the respective content owner and may be protected by

applicable copyright or other intellectual property laws and treaties. This agreement grants you no rights to use such content.

12.6 Limited Warranty

EcuTek warrants that:

The Product will perform substantially in accordance with the accompanying written materials for a period of ninety (90) days from the date of receipt.

EcuTek will make reasonable efforts to solve any reported problem with The Product. However, compatibility with future ECUs and technology cannot be guaranteed.

EcuTek will also make reasonable efforts to solve any reported problem but compatibility where other companies products have been used cannot be guaranteed.

This warranty is void if failure of The Product has resulted from accident, abuse, or misapplication.

EcuTek shall not be held responsible for abnormal operation of computer systems or vehicles arising from misuse of The Product.

12.7 Customer Remedies

EcuTek's entire liability and your exclusive remedy shall be, at the choice of EcuTek:

Return of the price paid, if any, minus any Flash Points used.

Alternatively, at EcuTek's option, repair or replacement of The Product that does not meet EcuTek's Limited Warranty.

12.8 No Other Warranties.

To the maximum extent permitted by applicable law, EcuTek disclaim all other warranties and conditions, either express or implied, including, but not limited to, implied warranties or conditions of merchantability, fitness for a particular purpose, title and non-infringement, with regard to the software product, and the provision of or failure to provide support services.

To the maximum extent permitted by applicable law, in no event shall EcuTek be liable for any special, incidental, indirect, or consequential damages

Whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use the software product or the failure to provide support services, even if EcuTek has been advised of the possibility of such damages.

In any case, EcuTek's entire liability under any provision of this licence agreement shall be limited to the amount paid to EcuTek for the product.

12.9 Governance

This agreement is a legal contract and shall be governed by and construed in accordance with the laws of England and Wales, whose courts shall have exclusive jurisdiction over all disputes arising in connection with this agreement. You submit to be bound by the terms of this agreement even if your place of business, residence or citizenship is located elsewhere.

IMPORTANT: EcuTek reserves all rights not expressly granted in this agreement.

13 Forms

This section includes various forms that may be used when communicating with EcuTek. These forms contain fields for all relevant information, so we recommend they are used wherever possible. You can choose to provide all the information in an email, though you should carefully check that you have provided data for all fields on the form.

13.1 EcuTek Tuner Application Form

Please use this form when applying to become an EcuTek Tuner:

<http://www.ecutek.com/forms/tuner>

13.2 EcuTek Sub-Dealer Application Form

Please use this form if you are an existing EcuTek Tuner and wish to appoint a Sub-Dealer:

<http://www.ecutek.com/forms/sub-dealer>

13.3 EcuTek Software Order Form

All EcuTek Tuners can purchase Tuning Suites from the EcuTek Web Store at <http://www.ecutek.com>. However, if you do not yet have a Web Store account, please use the order form below to place your initial order:

<http://www.ecutek.com/forms/software>

13.4 EcuTek Bank Transfer Form

If you need to make a bank transfer to EcuTek, please fill out the following form, so that we can quickly allocate your payment to your EcuTek customer account:

<http://www.ecutek.com/forms/bank>

14 EcuTek Contact Information

14.1 Sales Enquiries

sales@ecutek.com

14.2 Support Enquiries

support@ecutek.com

14.3 Account Enquiries

accounts@ecutek.com

14.4 Phone

+44 1895 811200

14.5 Company Address

EcuTek Technologies Limited
8 Union Buildings
Wallingford Road
Uxbridge
Middlesex
UB8 2FR

Visits by appointment only

14.6 VAT Number

GB 235 261 623

14.7 Company Registration Number

0980 5894

14.8 Office Hours

Monday to Friday 9.00am - 5.30pm

Saturday & Sunday Closed

Closed for Public Holidays

15 EcuTek Tuner Agreement

From time to time, EcuTek may revise this dealer agreement. You are expected to agree to any revisions to the document, in order to continue your ongoing relationship with EcuTek.

To indicate your acceptance and understanding of this agreement, please sign below and return this form using one of the following 3 methods:

- By posting to:
EcuTek, 8 Union Buildings, Wallingford Road, Uxbridge, UB8 2FR, UK
- By faxing to (+44) 1895 811611
- By scanning and emailing to sales@ecutek.com

EcuTek Tuner Agreement	
I have read and accept the terms of this document. I also confirm that I am authorised to sign the agreement on behalf of the company below.	
Agreement Version	
Signature	
Full Name	
Date	
Position at Company	
Company	
Address	