

# Libelium´s Standard Terms and Conditions of Sale and Use for Consumers (B2C)



# INDEX

<b>1. Definitions</b>	<b>3</b>
<b>2. Acceptance</b>	<b>3</b>
<b>3. Offers</b>	<b>3</b>
<b>4. Discontinuance of supply</b>	<b>4</b>
<b>5. Prices</b>	<b>4</b>
<b>6. Payment</b>	<b>4</b>
<b>7. Orders</b>	<b>4</b>
<b>8. Delivery</b>	<b>5</b>
<b>9. Shipping costs</b>	<b>5</b>
<b>10. Product return and refund policy</b>	<b>5</b>
<b>11. Warranty</b>	<b>6</b>
11.1. Hardware	6
11.2. Software	7
11.3. Product Certification	7
<b>12. Liability waiver</b>	<b>8</b>
<b>13. Use of the documents</b>	<b>9</b>
<b>14. Intellectual property</b>	<b>10</b>
<b>15. Privacy policy</b>	<b>11</b>
15.1. Data protection	11
15.2. Privacy Policy	12
15.3. Linked sites	12
<b>16. Applicable law and settlement of disputes</b>	<b>13</b>

Thank you for using our products. By buying this product (the “**Product(s)**”), you (“**You**”) accept and agree to be bound by these Standard Terms and Conditions of Sale and Use for Consumers (the “**B2C T&C**”) and YOU acknowledge having been informed by LIBELIUM of all rights granted to YOU by Spanish Consumer Protection Act. It is important for You to read each section of this document, as it is legally binding between You and **LIBELIUM**, regarding your purchase and use of the Product. Please, read this whole document before buying and/or using your Product.

## 1. Definitions

- a) “Consumer” shall mean an individual or legal person validly purchasing and/or obtaining a license on the Product out of the scope of any for-profit business or professional activity.
- b) “Documents” shall include but not being limited to the information contained in LIBELIUM’s Website and User’s Handbooks.
- c) “Intellectual Property Rights” shall include but not to be limited to proprietary rights, know-how, software, trademarks, slogans, translations, utility models, trade names, domain-names, designs and models and any applications thereof as well as copyrights and related rights, trade secrets and confidential information, concerning the Product(s) and the Documents.
- d) “LIBELIUM” shall mean the Spanish company Libelium Comunicaciones Distribuidas, S.L., with Tax (VAT) number ES-B99135832 and registered address at c/ Escatrón 16 (Edificio LIBELIUM), 50014 Zaragoza, Spain, tel. +34 976 547 492, Fax +34 976 473 186, Mail: info@cooking-hacks.com registered with the Zaragoza Commercial Registry under Book\_\_\_\_, Folio \_\_\_\_\_, Sheet\_\_\_\_, websites [www.libelium.com](http://www.libelium.com) and [www.cooking-hacks.com](http://www.cooking-hacks.com).
- e) “LIBELIUM’s Website” shall mean [www.cooking-hacks.com](http://www.cooking-hacks.com).
- f) “Product” or “Product(s)” shall mean the hardware devices, software programs and upgrades, solutions and services developed, manufactured and marketed by LIBELIUM.
- g) “User” shall mean anyone gaining access to LIBELIUM’s Website.

## 2. Acceptance

These B2CT&C shall apply to all offers and sales made by LIBELIUM to Consumers. It is the responsibility of Consumers to identify themselves as such when getting into LIBELIUM’s Website. If YOU are not a Consumer but a Business Customer, please refer to [Libelium’s B2B T&C](#).

Specific terms and conditions agreed upon for a particular order shall not bind LIBELIUM for future orders. A purchase order submitted to LIBELIUM implies express acceptance of these B2C T&C upon which only specific selling terms agreed upon by LIBELIUM and Consumer on a case by case basis, will prevail.

## 3. Offers

LIBELIUM’s offers shall be valid for a thirty (30) calendar day term as from the day in which they were communicated to Consumer, after which they will not bind LIBELIUM.

## 4. Discontinuance of supply

LIBELIUM shall be entitled at any time to discontinue the production, sale or distribution of any of its Product(s), to change the design, structure, or functionality of any of its Product(s) and any part thereof, to amend the Product(s) and to change its service, warranty or other policies. LIBELIUM engages to support discontinued Product(s) with parts availability and bug fixes as long as such stocks are not sold out.

LIBELIUM cannot guarantee continuance of supply of those Products or components supplied by third parties other than LIBELIUM.

## 5. Prices

Prices set forth in LIBELIUM's Website shall be deemed expressed in Euro currency and shall be considered FCA Libelium's premises in Zaragoza, Spain (Incoterms® 2010), exclusive of:

- VAT -Sales Tax- or any other applicable tax or duty, which shall be added to all sales to Consumers within the European Union at the then current rate. More info at [https://www.cooking-hacks.com/customer-service#sales\\_tax](https://www.cooking-hacks.com/customer-service#sales_tax).
- Shipping and/or insurance costs, which shall be added on a case by case basis, except in the case of sales over €150.00 shipped to any destination in Spain (Peninsula & Islands), in which case shipping costs are included. More info about our shipping policy at [https://www.cooking-hacks.com/customer-service#shipping\\_policy](https://www.cooking-hacks.com/customer-service#shipping_policy).
- Customs duties and taxes in the destination country.
- The cost of obtaining any document requested for customs clearance in the country of destination.

LIBELIUM shall be entitled to modify prices at any time without prior notice. Valid prices shall be those published in LIBELIUM's Website at the time of placing an order.

## 6. Payment

Payment terms shall consist of a down payment for the full amount of the order, either by credit card (only VISA and Master Card accepted), Paypal or wire transfer. More info on payments can be obtained at <https://www.cooking-hacks.com/customer-service#payment>

## 7. Orders

The submission of an order, whether online through LIBELIUM's Website, available in English language only, or by any other means, implies express acceptance by Consumer of these B2C T&C. LIBELIUM shall confirm all orders by email within the 24 hour-term following submission of order, or shall inform Consumers within the same term of any circumstance avoiding or delaying delivery, in which case LIBELIUM shall give Consumer the choice of cancelling the order and getting refunded, or accepting another product, similar to the one ordered. As an exception, when payment is made through a wire transfer, this order confirmation will be issued within the 24 hour-term following reception by LIBELIUM that payment has been received in its bank account.

Orders cannot be cancelled after shipment of Product(s). Neither can they be cancelled in case of non-stock Product(s), nor after the start of the raw materials supply or the manufacturing processes.

## 8. Delivery

Delivery terms shall be FCA LIBELIUM's premises in Zaragoza, Spain (Incoterms® 2010), meaning that transfer of risk to Consumer takes place at LIBELIUM's premises, irrespective of the fact that LIBELIUM arranges shipment of Products to Consumer. For taking delivery at LIBELIUM's premises in Zaragoza, please consult [https://www.cooking-hacks.com/customer-service#local\\_pickup](https://www.cooking-hacks.com/customer-service#local_pickup).

Delivery time shall only start running after reception by LIBELIUM of the full price of an order.

Under no circumstance shall LIBELIUM be considered responsible for any delay in delivery due to the carrier's or third parties' failure.

LIBELIUM shall inform Consumer as soon as possible about any circumstance beyond its responsibility and preventing the agreed delivery time from being met.

## 9. Shipping costs

Information on shipping can be found at [https://www.cooking-hacks.com/customer-service#shipping\\_policy](https://www.cooking-hacks.com/customer-service#shipping_policy).

Product(s) shipped by LIBELIUM do not include any shipping insurance. Please contact LIBELIUM if you want shipping insurance quoted.

Shipping costs are included in the price in the case of sales over €150.00 shipped to any destination in Spain (Peninsula & Islands).

## 10. Product return and refund policy

Consumer is entitled to return any Product delivered by LIBELIUM, without providing any reason, within the fourteen (14) calendar-day term following receipt of Product(s), by informing LIBELIUM thereof in writing. For your convenience only, you can use this Right of Return and Refund Form. LIBELIUM will acknowledge receipt through an email.

Any Product returned must be sent to LIBELIUM's After Sales Service, c/ Escatrón 16 (Edificio LIBELIUM), 50014 Zaragoza, Spain, shipping costs prepaid, within the fourteen (14) calendar-day term following communication of Consumer's decision to return the Product. Products must be returned with all their components, accessories and original packaging.

LIBELIUM will refund Consumer the full price paid by Consumer, including shipping costs -but excluding any extra-costs resulting from the choice by Consumer of any shipping modality different than Libelium's standard shipping and any customs duties and local taxes), by using the same payment terms used by Consumer for payment, within the fourteen (14) calendar-day term following reception by LIBELIUM of any returned Product.

Consumer will be held liable of any value decrease of the returned Product(s), different from that resulting from the usual handling needed to establish the nature, features of functionality of the returned Products, which will be taken into account to establish the amount to be refunded by LIBELIUM.

This Product Return and Refund Policy shall not apply to customized Products, neither to Products embedded by Consumer into other Products not supplied by LIBELIUM.

## 11. Warranty

LIBELIUM guarantees that the Product(s) comply with the specifications contained in its offers for a period of two (2) years from the date of delivery (date of invoice), provided that they are handled, shipped, stored and used according to the instructions to be found in the respective User's Handbooks. Therefore, LIBELIUM shall assume liability only for such non-conformities and defects which are proved to have been caused by actions or negligence committed before the Product(s) were delivered to the first carrier.

Consumer shall check any Product delivered immediately after reception and shall inform LIBELIUM in writing about any complaint or claim concerning the Product(s) which may be put on the latter. After a fourteen (14) day period from delivery has elapsed, Consumer shall not be entitled to bring any claim or complaint regarding qualitative shortcomings and such defects or non-conformities which should have been noticed in the inspection and LIBELIUM shall not be obliged to accept return of such Product(s). Claims for any hidden defects or non-conformities must be made to LIBELIUM in writing within two (2) months from the date in which Consumer learned of the defect, and in any event within the two (2) year term from the date of the invoice.

Provided that claims are made within the above time limits and form requirements and the claim is found justifiable, LIBELIUM shall remedy the defect, non-conformity or shortcoming at no additional cost to Consumer, either through amending or replacing the defective or non-conforming Product. Replacement Product(s) may be either new or equivalent in performance to new. LIBELIUM does not warrant that the operation of Product(s) will be uninterrupted or error free. Product(s) may contain remanufactured parts equivalent to new in performance or may have been subject to incidental use.

If YOU suspect your Product to be non-conforming, please contact our After Sales Service through our website: <http://www.libelium.com/support>. Repair service can be obtained by sending your defective product to LIBELIUM (shipping costs pre-paid by You), according to the instructions to be found in our website. Some of our Product(s) are protected with a safety seal and by removing this seal, whenever it happens, You are waiving this warranty.

LIBELIUM's warranty covers the repairs (manpower and materials) of each manufacturing defect that may obstruct the right operation of the Product. The replacement of any component or damaged equipment does not mean an extension of the guarantee period. If the Product is found upon examination by LIBELIUM to be defective, LIBELIUM shall bear shipping costs incurred in returning the Product to Consumer as well as all costs involved in LIBELIUM's examination of the Product. If the Product is found upon examination by LIBELIUM to not be defective, Consumer shall bear shipping costs incurred in returning the Product to Consumer.

LIBELIUM may, at its discretion, demand the Product claimed to be defective or non-conforming to be either returned or inspected or tested by an independent third party acceptable to LIBELIUM.

LIBELIUM shall assume no responsibility for any liabilities arising in connection with the use of the Product(s) against or not in accordance with any instructions given or for other purposes than those for which they have been intended.

No liability could be claimed against LIBELIUM should the defective Product be handled, amended or altered in any way by a third party other than LIBELIUM or its authorized After Sales Service.

This warranty is in lieu of all other warranties, expressed or implied, and no representative or person is authorized to assume for LIBELIUM any other liability in connection with the sale of the Product(s). In the event of a warranty claim, LIBELIUM's entire and sole responsibility to Consumer is the price paid.

Under no circumstance shall LIBELIUM be liable for indirect, incidental or consequential damages caused by the Product(s), including but not limited to loss of data or of profit.

Please, read the documentation of the Product(s) for instructions about how to use the Product(s).

### 11.1. Hardware

The internal battery contained in some Product(s) can only be replaced by LIBELIUM's After Sales Service. Any attempt to replace said battery by the Consumer or any third party shall imply a waiver of the warranty. LIBELIUM hereby waives any warranty concerning hardware developed by third suppliers or partners, either integrated in the Product(s) or sold together with the Product(s) as a kit.

## 11.2. Software

LIBELIUM hereby waives any warranty concerning software developed by third suppliers. Access to such software is solely provided to facilitate operation of the Product(s) by Consumers and to these effects, Consumers must check and accept the Terms and Conditions of Use of each software supplier. Software adapted or developed by LIBELIUM for its Product(s) is offered "as is" without any express or implied warranty. LIBELIUM hereby advice Consumers to avoid using this software for medical and health applications and, in general, in any critical system on which human lives or public health may depend (nuclear power plants, reservoir lock gates, security systems, etc.).

## 11.3. Product Certification

Detailed information about the certifications of the Products can be found in the respective Technical Guides. LIBELIUM dos not warrant that the Products count on the certifications requested for this kind of products in any given country, so it is the Consumer's and the OEM Consumer's responsibility to check whether the Products can be imported and resold in the intended country of destination.

## 12. Liability waiver

Notwithstanding other liability waivers contained in section 11 of these B2C T&C, LIBELIUM's warranty does not apply to non-conformities, defects, personal injuries or death resulting from:

- a) improper or inadequate maintenance or calibration;
- b) software, interfacing, parts, or supplies not supplied by LIBELIUM;
- c) unauthorized modification or misuse;
- d) operation outside of the published environmental specifications for the Product(s);
- e) improper storage, site preparation, wrong installation or maintenance;
- f) replacement of the internal battery by Consumer or any third party other than LIBELIUM's After Sales Service;
- g) damaged materials or parts as a result of normal wear and tear;
- h) faulty performance of the products in which the Product(s) are embedded by Consumer;
- i) non-conformities and defects which are proved to have been caused by actions or negligence committed after the Product(s) were delivered to the first carrier.
- j) non-performance or faulty performance of the Product(s) as a result of radio-frequency use restrictions or power broadcasting restrictions in any given country;
- k) specific product certifications required in any given country.



## 13. Use of the documents

Use of the information contained in the Documents is subject to the following terms and conditions of use:

a) All Documents and any examples they contain are provided as-is and are subject to change without notice. Except to the extent prohibited by law, LIBELIUM makes no express or implied representation or warranty of any kind with regard to the Documents, and specifically disclaims the implied warranties and conditions of merchantability and fitness for a particular purpose.

b) LIBELIUM shall not be liable for any errors or incidental or consequential damage in connection with the furnishing, performance or use of the Documents and the examples included. No part of the Documents may be reproduced, stored in a retrieval system, or transmitted in any form or any means electronic or mechanical, including photocopying and recording, for any purpose other than the readers' personal use, without LIBELIUM's prior written consent.

c) LIBELIUM has created the Documents for the personal use of Users as well as for external communication. The information in the Documents, whether in whole or in part, cannot be used for commercial purposes without the prior written consent of Libelium.

d) The information on LIBELIUM's Website has been included in good faith for general informational purposes only. It should not be relied upon for any specific purpose and no representation or warranty is given as to its accuracy or completeness.

e) LIBELIUM has taken every care in the preparation of the website. However, as certain technical matters may be beyond its control, it cannot guarantee that Consumers and Users will have uninterrupted access to its Websites at all times.

f) LIBELIUM reserves the right, at its sole discretion, to modify, disable access to or discontinue, temporarily or permanently, any part or all of its Website or any information contained thereon without liability or notice to Users and Consumers.

g) LIBELIUM shall not be liable for any loss, damage, liability or expense incurred in or suffered that is claimed to have resulted from the use of the Documents, including, without limitation, any fault, error, omission, interruption or delay with respect thereto. The use of the Websites is at User's and Consumer's sole risk.

h) Links on the Documents to third-parties' websites are provided solely as a convenience to Users. By using these links, User will leave LIBELIUM's Website. LIBELIUM has not reviewed all of these third-parties' documents/websites and does not control and is not responsible for any of these sites or their content. Access to any of these third-parties' documents/websites linked to this website, is entirely at the End User's own risk.

i) Consumers must carefully read the User's Handbooks of the Product(s), especially sections "Before Using the Product(s)", "How to use the Product(s)", "Maintenance" and "Standardisations", before putting the Product(s) into operation. Provided that the Product(s) operate with radio-frequency modules Consumers must carefully read section "Standardisations" to become aware of Product tests accomplished, their radio-frequencies and broadcasting powers. Installers assume all liability concerning gathering information on use restrictions of frequency bands in every country and acting according to any applicable regulation. LIBELIUM does not disclose the whole list of rules and regulations in force in every country. For further information please refer to:

CEPT ERC 70-03E - Technical Requirements, European restrictions and general requirements: <http://www.ero.dk>

R&TTE Directive - Equipment requirements, placement on market: <http://www.ero.dk>

## 14. Intellectual property

Libelium, MeshLium, Plug and Mesh!, Squidbee, SetMeBlue!, Cooking Hacks, WaspMote and Plug and Sense! and N-Vio names, designs and logos are trademarks of LIBELIUM (“the Trademarks”).

Some Product(s) are protected by patents and/or other intellectual property rights.

Nothing in the Documents or in these B2C T&C shall be construed as to grant Consumers a license or any other right on LIBELIUM’s trademarks, patents or other Intellectual Property rights. Consumers are not permitted to copy, modify or use the trademarks without the prior written consent of LIBELIUM. The rest of trademarks that may appear in the Documents are the property of their owners.

Consumers shall refrain from incurring in any action that may obstruct the granting of pending patents or any other intellectual property right for which LIBELIUM may have applied.

The design and source codes in LIBELIUM’s Website, as well as any logo, trademark, trade name and any other symbols appearing in them belong to LIBELIUM or its suppliers and customers and are protected under the corresponding intellectual property regulations. Any use, reproduction, distribution, broadcasting, public disclosure, transformation or any other similar activity is prohibited unless LIBELIUM’s or their owners’ prior written consent is obtained.

The contents in LIBELIUM’s Website are also protected by LIBELIUM’s or its suppliers’ intellectual property rights. Their use or reproduction is subject to express citation of LIBELIUM’s URL address. This citation is only permitted though a cover image or explanatory text linking to the website; integration in a different website is expressly prohibited. Any other use of the contents of LIBELIUM’s Website requires LIBELIUM’s express written consent.

## 15. Privacy policy

### 15.1. Data protection

In order to comply with the provisions in Spanish Data Protection Act (L.O. 15/1999 of 13th December) and its implementing Regulation (R.D. 1720/2007, of 21st December), LIBELIUM hereby informs its Consumers and Users that any personal data supplied through the forms contained in its websites shall be recorded in a file named "CUSTOMERS" for which LIBELIUM is responsible, located at LIBELIUM's registered address and which has been registered with the Spanish General Registry for Data Protection (Registro General de Protección de Datos de la Agencia Española de Protección de Datos).

Except for those fields expressly requesting compulsory filling, answers to the questions contained in any form are voluntary and therefore, the lack of answer does not imply a reduction of the quantity or quality of LIBELIUM's services. The aim of this data collection are to provide access to LIBELIUM's online shop, to send information on LIBELIUM's Product(s) and services as well as to collect Consumer's acceptance to the terms of use of the forums and other sections in LIBELIUM's Website. By filling these forms Consumers consent in receiving promotional offers concerning LIBELIUM's Product(s) and services. You further consent that LIBELIUM may make such data available to its services suppliers and commercial network for the purposes of enabling service provision, after sales service and warranty.

Any User providing personal data through any of the forms in LIBELIUM's Website shall count on a 30 day period to inform LIBELIUM in writing of his/her refusal to the processing of his/her personal data. Unless this communication is made, it shall be deemed that the User consents the processing of his/her personal data according to the terms set forth in these B2C T&C. All personal data collected shall be processed by using the security measures requested by Law to avoid their loss, damage or access by any unauthorised third party. User may nevertheless be aware of the fact that the existing security measures for computer systems on the Internet are not entirely trustworthy. Should you think that your email address has been disclosed to us without your consent, do not hesitate to inform us thereof. Users may at any time exercise their rights of access, rectification, update, cancellation and objection, as well as revoke the consent granted for all of any of the above-mentioned processings, by sending a written statement to LIBELIUM, either through the "Contact" section in our website <http://www.libelium.com> or by post to the following address: LIBELIUM COMUNICACIONES DISTRIBUIDAS, S.L., c/ Escatrón, 16 (Edificio LIBELIUM), 50014 Zaragoza (Spain).

To exercise the above-mentioned rights you must indicate your name, ID/passport number, full address, date and signature, including any document supporting your request, in case it is needed; a copy of your ID card/passport must be enclosed, unless you use an electronic signature. User shall be liable for the veracity of data provided and only in case of holders of parental rights concerning children under fourteen and in connection with said children, shall LIBELIUM accept the disclosure of personal data concerning third parties. Users shall assume all liability for direct or consequential damages arising out of or in connection with the provision of false, inaccurate, incomplete or non updated data.

Furthermore, LIBELIUM reserves its right to exclude from any service for which prior registration is required, to any User having provided false data or failing to comply with these B2C T&C, notwithstanding any other legal action to which LIBELIUM may be entitled. LIBELIUM reserves its right to modify its Privacy Policy or these B2C T&C to adapt them to the regulations in force or for any other reason. Provided that the use of LIBELIUM's Website by Users shall be deemed as User's acceptance of LIBELIUM's Privacy Policy and B2C T&C, User is hereby requested to check these T&C and any further amendments from time to time.

In addition to the foregoing considerations and with the aim of improving its after-sales service, LIBELIUM may record any or all telephone conversations with Consumers and Users and store them in the above-mentioned "Customers" file. Unless expressly denied by Consumers and Users, consent to the recording of these conversations shall be deemed granted by phoning to LIBELIUM's after-sales telephone numbers.

## 15.2. Privacy Policy

Users may visit LIBELIUM's Website without disclosing neither their identity nor any personal data. LIBELIUM's servers may only collect domain names but not email addresses of their visitors. This kind of information is used to elaborate reports on visit statistics, the time spent in the websites, websites accessed, the general origin of visitors (through "Favourites", search engines, links from other websites, etc.) to the sole purposes of getting information on how the websites are used and improving their contents and services.

## 15.3. Linked sites

LIBELIUM's Website may provide links to other sites but LIBELIUM assumes no liability on the privacy policies adopted by the linked sites, directly or indirectly. Links to other sites are provided as a suggestion only and do not imply LIBELIUM's warranty or liability concerning their quality, accuracy or contents of the information provided therein.

LIBELIUM does not warrant the veracity or accuracy of the information disclosed by its suppliers or third parties whose products or services are offered through LIBELIUM, their origin, ownership or the use or practical implementation made by Consumers.

## **16. Applicable law and settlement of disputes**

These B2C T&C have been drafted in English only and shall be construed according to and governed by the Laws of the Kingdom of Spain.

Any claim which cannot be settled by the Parties amicably may be brought by LIBELIUM or Consumer before any Court of their choice.