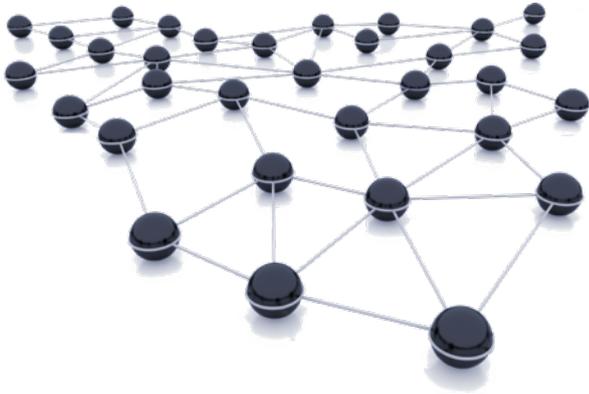


# LIBELIUM 's Terms and Conditions of Sale and Use for Customers (B2C)



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By buying our products (the **"Products"**), you (**"YOU"**): (i) represent and warrant being a Consumer; (ii) accept to be bound by these Standard Terms and Conditions of Sale and Use for Consumers (**"B2CT&C"**); and (iii) acknowledge having been informed by LIBELIUM of all rights granted to YOU by Spanish Consumer Protection Regulations. 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 Products. 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 Products, or participating in LIBELIUM's Training, 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 Websites, User's Handbooks, Technical Guides and Training materials.

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 Book3473, Folio 50, Sheet Z-42864, 1st record. 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) "Products" shall mean the hardware devices, software programs and upgrades, solutions and services developed, manufactured and marketed by LIBELIUM.

g) "Training" shall mean any training connected to the Products offered by LIBELIUM in consideration for a fee.

h) "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 (<http://www.libelium.com/resources/legal/>).

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 YOU 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.

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## 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.

Each confirmation of an online order will generate an electronic record ("The Purchase Agreement") which will be kept by LIBELIUM for a maximum of three months.

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.

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## 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 POLICY

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 reception of Product(s) at destination, by informing LIBELIUM thereof in writing. For your convenience only, you can use this [www.libelium.com/return-refund-form/](http://www.libelium.com/return-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.

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# 11. WARRANTY

## 11.1. Warranty and Warranty Period

LIBELIUM guarantees that its Products comply with the specifications in its offers for a period of two (2) years from the date of delivery, shipping document giving evidence (“**the Warranty Period**”), provided that they are handled, shipped, stored, operated, used and maintained according to the instructions in LIBELIUM User’s Handbooks. Therefore, LIBELIUM assumes liability only for non-conformities caused by actions or negligence attributable to LIBELIUM before the Products were delivered to the first carrier.

Consumer shall check deliveries immediately after reception at destination and shall inform LIBELIUM in writing within seven (7) days about any apparent non-conformity. After such term, Consumer shall not be entitled to bring any claim regarding quantitative shortcomings or apparent non-conformities which should have been noticed during unboxing/unpacking, and LIBELIUM shall not be obliged to accept return of such Products. Claims for hidden defects or qualitative non-conformities must reach LIBELIUM in writing within thirty (30) days after Consumer learned of the non-conformity, and in any event, within the Warranty Period.

## 11.2. Warranty Procedure

The following procedure shall apply to any non-conformity notified to LIBELIUM within the Warranty Period:

a) Consumer shall report any alleged non-conformity to LIBELIUM’s After Sales Service through the website: <http://www.libelium.com/support>, including a detailed list of all alleged non-conformities;

b) LIBELIUM shall count on five (5) banking days to reply, either by admitting the claim, or by rejecting it;

c) If the claim is admitted, LIBELIUM shall notify its acceptance to Consumer and shall choose, at its discretion, either to replace or amend the non-conforming Product at no additional cost to Consumer. The Warranty Period of any replacing Product shall be the same remaining for the replaced Product;

d) Lack of answer by LIBELIUM within the term expressed above shall be deemed as a rejection of Consumer’s claim. Any cost resulting from analysis or essays to ascertain if non-conformity exists, shall be paid by LIBELIUM should the result show Product non-conformity and by Consumer in case they are conforming;

e) Replacement Products may be either new or equivalent in performance to new. LIBELIUM does not warrant: (i) that the components in any replacement Product come from the same supplier or are exactly the same as in the replaced Product; nor (ii) that the operation of Products will be uninterrupted or error free. Products may contain remanufactured parts equivalent to new in performance or may have been subject to incidental use.

## 11.3. Shipping and examination costs under the Warranty

Repair service can be obtained by sending the non-conforming Product to LIBELIUM (shipping costs pre-paid), only after a Return Merchandise Authorization (RMA) number is obtained from LIBELIUM’s After Sales Service, according to the instructions in our website. Some of our Products are protected with a safety seal and by removing this seal, Consumer shall be waiving this Warranty.

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 be conforming, Consumer shall bear shipping costs incurred in returning the Product.

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

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## 11.4. Scope of the Warranty

The scope of this Warranty is limited to hardware components in the main board, sensor board and radio shields, manufactured by LIBELIUM.

## 11.5. Warranty exclusions

This Warranty does not apply to non-conformities resulting from:

a) **Hardware.** Any hardware component manufactured by third parties, either integrated in the Products or sold together with the Products as a kit, and namely, but not limited to:

- Batteries (performance and life);
- Any external component which get deteriorated through normal wear and tear, such as antennas, sensor probes, solar panels, connectors, etc;
- Any perishable component, such as calibrated gases sensors, which lose a small percentage of its original calibration monthly.

b) **Software.** LIBELIUM hereby waives any warranty concerning software developed or cloud services provided by third suppliers or partners, including but not limited to communication stacks included in radio modules or in digital sensor probes. Access to such software or services is solely provided to facilitate operation of the Products by Consumer and to these effects, Consumer must check and accept the terms and conditions of use by each supplier or partner. Software adapted or developed by LIBELIUM for its Products is offered "as is" without any express or implied warranty. LIBELIUM hereby advises Consumer 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.)

c) **Installation, maintenance, calibration and use.** LIBELIUM hereby waives any Warranty concerning non-conformities arising from:

- Improper storage;
- Failure to follow installation instructions in User's Handbooks. Liability should be claimed from the company carrying out installation (i.e. parking projects, where Libelium's instructions are to demarcate each parking space and install the node in the middle of such space);
- Bad/lack of maintenance: User's Handbooks contain guidance on periodical maintenance (cleaning sensors with water, removing dust from filters, etc.). Liability should be claimed from the company carrying out maintenance, or directly from end-user if there is no such maintenance service;
- Wrong Product calibration;
- Unauthorized modification or misuse;
- Operation outside of the published environmental specifications for the Products;
- Damaged materials or parts as a result of normal wear and tear;
- Poor/Faulty performance of the products in which the Products are embedded by Consumer;
- Non-conformities and defects which are proved to have been caused by actions or negligence committed after the Products were delivered to the first carrier;
- Non-performance or faulty performance of the Products as a result of radio-frequency use restrictions or power broadcasting restrictions in any given country;
- Any connectivity error resulting from poor coverage and attributable to the connectivity services supplier;
- Ingress of dust and/or water resulting from poor closing of the parking node enclosure, and attributable to the company/ies programming the node or performing installation.

d) **Product Certification.** Detailed information about the certifications of the Products can be found in the respective Technical Guides. LIBELIUM does not warrant that the Products count on specific product certifications required in any given country, so it's Consumer's responsibility to check whether the Products can be imported and resold in the intended country of destination.

e) **External Agents.** Damages caused to the Products by external agents, such as, but not limited to animals or weather condition (lightning, storm, wind, flooding, fire...), shall be considered as Force Majeure events, not covered under the Warranty.

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**f) Intermediate Data Buffer Services.** LIBELIUM does not offer data storage services through “The Hive” (formally known as “Libelium Cloud Hive”), but rather an intermediate data buffer service which temporarily stores a certain amount of data while they are transferred to third parties’ cloud platforms, and removes such data once transfer is completed. LIBELIUM hereby waives any Warranty concerning non-conformities or liability arising from:

- Wrong performance and/or operation of third parties’ cloud services;
- Loss or corruption of data being transferred as a consequence of lack of access, or overcapacity of the intermediate buffer, either if the destination cloud platform is not accessible, because of an internal problem in the internal buffer services, or if an excessive amount of data is sent all at once;
- Unauthorized access to data being transferred: LIBELIUM allows data encryption, but it’s the responsibility of Customer/OEM Customer to use such encryption techniques and to implement any requested compatibility with the destination Cloud platform

## 11.7. Liability Waiver

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

b) 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 Products. In the event of a warranty claim, LIBELIUM’s entire and sole responsibility to Consumer is as set forth above, with the limit of the price paid. No claims based on product liability shall be accepted by LIBELIUM in cases different than the ones established in the preceding paragraphs.

c) To the extent permitted by law, LIBELIUM’s Product liability for damages caused by Products is limited to a global amount of one million and two hundred thousand Euro (1,200,000.00 €) per accident, for personal injury and material damages.

## 12. 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.

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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>

## 13. INTELLECTUAL PROPERTY

Libelium, MeshLium, Plug and Mesh!, Squidbee, SetMeBlue!, Cooking Hacks, WaspMote, Plug and Sense!, N-Vio, My Signals, Libelium Cloud Hive, together with any design or logo, and any other whether registered or not, used by LIBELIUM in the promotion of the Products, 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 any action that may obstruct the granting of pending patents or any other intellectual property right for which LIBELIUM may have applied.

Any design, source code logo, trademark, trade name or symbol in LIBELIUM's websites belong to LIBELIUM, or its suppliers or partners and are protected under the corresponding intellectual property regulations. Any use, reproduction, distribution, broadcasting, public disclosure, transformation or any other similar activity is prohibited without LIBELIUM's or their owners' prior written consent.

The contents in LIBELIUM's Website are also protected by LIBELIUM's or its suppliers' and partners' intellectual property rights. Their use or reproduction is subject to express citation of LIBELIUM's URL address. This citation is only permitted through 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.

LIBELIUM is the owner of all Intellectual Property Rights -including Copyright- concerning Training materials and content; Consumer shall use said materials and contents according to Clause 16 of these B2C T&C.

## 14. PRIVACY POLICY

Please visit <http://www.libelium.com/privacy-policy/>

## 15. TRAINING

Training offered by LIBELIUM will last three (3) days unless otherwise expressed in an offer.

Training offers will always imply full prepayment. The following Training Refund Policy shall apply to cancellation of registrations:

a) Registrations cancelled up to three (3) weeks before the Training, will be refunded 100% of the registration fees;

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- b) Registrations cancelled less than three (3) weeks before the Training will be refunded 50% of the registration fees;
  - c) Registrations cancelled on the same day the Training starts, including no attendance, will not be eligible for a refund.
  - d) LIBELIUM's expenses already incurred by the date of cancellation will not be eligible for a refund.

Training does not imply the provision of consultancy services to Consumer, who should not rely on any opinion, comment or advice provided by LIBELIUM's trainer during Training, for any particular purpose, and LIBELIUM hereby waives any liability resulting thereof.

Intellectual Property, including copyright, of all Training materials and content belongs exclusively to LIBELIUM. Consumer will not copy, record, reproduce, disclose, broadcast, or assign any part of said materials and content without LIBELIUM's prior written consent. For clarification purposes, this prohibition includes a general ban to record any Training session, or to upload any Training materials to any website or cloud platform.

## **16. GOVERNING LAW and DISPUTE SETTLEMENT**

These B2CT&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.