
LEDVANCE SMART+ APP TERMS OF USE

Effective Date: October 24, 2018

These Terms Of Use (together with the documents referred to herein) govern the terms of how you may make use of the “LEDVANCE SMART+” application for mobile devices (the “App”).

1. Consent to the Terms of Use, Mobile App Store Disclaimer

1.1 These Terms of Use are a binding contract between you and LEDVANCE GmbH, Parkring 29-33, 85748 Garching, Germany (“LEDVANCE”). You should carefully read the Terms of Use. By clicking on “accept” or downloading the App to your mobile device or using the App, you confirm that you have fully read and understood the Terms of Use and you fully accept and agree to be bound by all of the provisions of these Terms of Use including, without limitation, the LEDVANCE SMART+ APP OPEN SOURCE SOFTWARE INFORMATION AND LICENSE TERMS as per Section 8 below and the LEDVANCE SMART+ APP PRIVACY POLICY as per Section 9 below as well as any amendments, which will remain in effect during and after your use of the App.

1.2 If you do not accept all of the terms of these Terms of Use, you have no right to use the App and must immediately cease use of the App and uninstall the App from your mobile device.

1.3 These Terms of Use are between you and LEDVANCE and not with any mobile application market (“Mobile App Store”), e.g. Google Play or the Apple Inc. App Store. Your ability to download and use the App may depend on your compliance with the Mobile App Store’s own terms and conditions. The Mobile App Store is not responsible or liable for your use of the App.

2. License Grant

The App software (including, without limitation, updates, patches and upgrades) is licensed and not sold to you. LEDVANCE grants you a personal, revocable, non-exclusive, non-transferable, limited right to install and use the App through your mobile device, subject to these Terms of Use. The App is provided free of charge.

3. Usage Restrictions, Suspension/Termination of Use

3.1 Use of the App requires registration and a password.

3.2 You may not and may not allow others to:

- a) decompile, reverse engineer, disassemble, or decrypt the App except as allowed by § 69e of the German Copyright Act (Urheberrechtsgesetz) or any other applicable provision of mandatory law,
- b) make any modification to or derivative work from the App,
- c) violate any policies, laws or regulations governing your use of the App,
- d) infringe industrial property rights, copyrights, personal, property and other third party rights,
- e) transmit contents containing viruses, so-called Trojan horses or other programs that can damage software,
- f) remove, alter or obscure any proprietary notice of LEDVANCE or its licensors,
- g) use the App to create a competitive or similar application, software or product or
- h) remove, disable, circumvent or workaround any copy protection, rights management or security features of the App.

3.3 LEDVANCE may suspend or terminate your rights to use the App without prior notice if LEDVANCE

reasonably believes that you failed or intend to fail to comply with any of the provisions of these Terms of Use, or violate any applicable law, regulation, license or terms of service. LEDVANCE may suspend or terminate your right to use cloud services for any irregular use.

4. Updates and Changes to the App

LEDVANCE is constantly trying to improve the App, so it may change over time. LEDVANCE may develop patches, bug fixes, updates, and upgrades to offer new features or improve the performance of the App. LEDVANCE may suspend or discontinue any part, feature and/or application of the App, introduce new features or impose limits on certain features or restrict access to parts of or all of the App. In some cases, the changes LEDVANCE makes to the App may cause older hardware devices, third party services, software configurations or setups to no longer work with the App, and you may be required to update or change these devices, services, configurations or setups in order to continue using the App. LEDVANCE will try to give you notice of a material change to the App that would adversely affect you, but this is not always practical or possible.

5. Third Party Data Charges, Excessive Use

5.1 Please be aware that the terms and conditions you agree to with your mobile services carrier or provider may be subject to fees, limitations and/or restrictions which might impact your use of the App. For example, your mobile service carrier or provider may impose data usage charges for your use of the App, including, without limitation, downloading the App, or other use of your mobile device when using the App. You agree to be solely responsible for all such fees, limitations and restrictions.

5.2 You are solely responsible for any damages resulting from excessive or abnormal use of the App.

6. Third Party Products and Services

You may choose to use or connect the App with devices, hardware, software, applications or services of others ("**Third Party Products and Services**"). Your use of Third Party Products and Services will be governed by the terms and conditions of the provider of that product or service. LEDVANCE does not control or make any warranties with regard to Third Party Products and Services. LEDVANCE and its affiliates, suppliers and licensors are not responsible for your use of any Third Party Product or Service. If you have questions about Third Party Products and Services you should contact the provider.

7. Intellectual Property Rights, User Content, Trademarks

7.1 The App contains proprietary and confidential information that is protected by intellectual property laws and treaties. The App is the intellectual property of LEDVANCE, its affiliates or their licensors, who reserve all rights not expressly granted in these Terms of Use.

7.2 All trademarks, logos, and service marks ("**Marks**") displayed on the App are the property of LEDVANCE, its affiliates, or licensors and are used with permission by LEDVANCE. You are not permitted to use any of the Marks without the prior written consent of LEDVANCE or its affiliates and, if applicable, its licensor.

8. Open Source Software

Open source licenses which are subject to license agreements are used in the App. Please find the open source licenses and the applicable license agreements in the [LEDVANCE SMART+ APP OPEN SOURCE SOFTWARE INFORMATION AND LICENSE TERMS](#) by clicking here.

9. Data Protection

Protecting your personal data is important to LEDVANCE. LEDVANCE conducts its business in compliance with applicable laws on data protection. These Terms of Use are supplemented by the [LEDVANCE SMART+ APP PRIVACY POLICY](#), which describes the collection, processing, use and storage of personal data from users of the App by LEDVANCE. The [LEDVANCE SMART+ APP PRIVACY POLICY](#) can be found by clicking here.

10. Security

10.1 LEDVANCE cares about the security of your personal data. LEDVANCE cannot guarantee that its security will never be compromised or that unauthorized parties will never access your personal data. You provide your personal data at your own risk. You are solely responsible for securing your home network and connected devices and should monitor any unauthorized or suspicious use of the App.

10.2 Although LEDVANCE always strives to keep the App free of viruses, LEDVANCE does not warrant or guarantee the absence of viruses. Before downloading or using the App, you should take appropriate security precautions and scan for viruses, for your own protection and to prevent viruses on the App.

11. Warranty

The app is provided "as is" and "as available." Any and all liability for material defects and defects of title including, without limitation, for the accuracy, absence of errors, absence of third-party protection rights and copyrights, completeness, usability, uninterrupted availability, reliability, security and/or compatibility with any third party product or service are excluded, except in cases of deliberate intent or fraud. The foregoing provision does not constitute a reversal of the burden of proof.

12. Limitation of Liability

LEDVANCE shall be fully liable in case of deliberate intent or gross negligence of LEDVANCE or its legal representatives or agents (§ 278 of the German Civil Code (BGB)), culpable damage to life, body or health, in case of a quality guarantee, fraudulent concealment of a default as well as the mandatory unlimited liability based on the German Product Liability Act (ProdHaftG). Moreover, LEDVANCE shall be liable in case of a violation of a material contractual obligation due to ordinary negligence, however limited to the foreseeable typical damage. Material contractual obligations in this sense are such obligations which need to be fulfilled in order to allow for the proper implementation of the contract and compliance with which you as the contractual partner generally rely on and may generally rely on. Further and/or other claims or rights against LEDVANCE, regardless of the cause in law, shall be excluded. This exclusion also includes the personal liability of employees, legal representatives and vicarious agents. The aforementioned liability limitations apply respectively in case of claims for reimbursement of expenses instead of damages.

13. Place of Jurisdiction, Governing Law

13.1 The exclusive place of jurisdiction shall be Munich in case you are regarded as a merchant in terms of the German Commercial Code (Handelsgesetzbuch).

13.2 These Terms of Use shall be exclusively governed by and construed in accordance with German law, without regards to principles of conflict of laws. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

14. Changes to these Terms of Use, Severability

14.1 LEDVANCE reserves the right to change these Terms of Use at any time to the extent necessary and provided you are not disadvantaged by this against good faith or unreasonably. LEDVANCE will notify you of any changes by e-mail, if you have provided it, or through the App with an appropriate advance notice of at least four weeks, thereby informing you about the consequences if you do not react to such notification. If you do not agree with the revised Terms of Use, you are free to reject them; however, that means you will no longer be able to use the App. If you do not object to changes within six weeks of our notification, your continued use of the App means you have accepted these changes.

14.2 Should individual provisions of these Terms of Use wholly or partially be or become legally ineffective or unfeasible, this shall not affect the validity of the remaining provisions of these Terms of Use. The ineffective or unfeasible provision shall be replaced by an effective and feasible provision that comes as close as possible to the economic objectives of the parties. The same applies should these Terms of Use contain any gaps.