

Nest Limited Warranty

1. Nest Labs, Inc. (“Nest Labs” or “we”) warrants to the end user customer (“Customer” or “you”) of the product (“Product”) that the Product hardware components (“Product Hardware”), when used in accordance with the documentation furnished by Nest Labs (“Documentation”), will be free in all material respects of defects in materials and workmanship (“Limited Warranty”), for a period of two (2) years after the date of purchase by Customer of the applicable Product from Nest Labs or Nest Labs’ authorized reseller (the “Warranty Period”). If the Product Hardware (or any component or portion thereof) fails to conform to the Limited Warranty, Nest Labs will, at its own expense and as its sole obligation, and Customer’s sole and exclusive remedy, for breach of this warranty either (at Nest Labs’ sole discretion) (a) use commercially reasonable efforts to repair or replace any defective Product Hardware; or (b) accept the return of the Product incorporating the defective Product Hardware and refund to Customer the fees actually paid by Customer to Nest Labs or Nest Labs’ authorized reseller for such Product. Replacement Products and hardware may be refurbished and/or different models, but will be functionally equivalent to the Products or hardware being replaced. Any Product that has either been repaired or replaced under this Limited Warranty will have warranty coverage for the longer of ninety (90) days or the remaining Warranty Period. This Limited Warranty is transferable from Customer to subsequent Product owners, but the Warranty Period will not be extended for any such transfer.
- 2.
3. Nest Labs’ warranty obligations are conditioned on Customer (a) notifying Nest Labs through the contact information available at during the Warranty Period of any failure of the Product to meet the Limited Warranty, including a detailed description of such alleged failure, (b) otherwise complying with Nest Labs’ then-current return merchandise authorization (RMA) guidelines (if any), and (c) shipping the affected Product, at Customer’s cost, to Nest Labs for repair or replacement. Nest Labs will have no warranty obligations with respect to a returned Product, if it determines, in its reasonable discretion, after analysis of that returned Product, that the Product is an Ineligible Product (defined below). Nest Labs will bear all costs of return shipping to Customer, except with respect to any Ineligible Product, for which Customer will bear all shipping costs.
- 4.
5. Nest Labs will have no warranty obligation with respect to the following products (“Ineligible Products”): (i) Product Hardware that have no defects in materials or workmanship, (ii) Products with defects that are not reproducible by Nest Labs, (iii) Products marked as “sample” or sold “AS IS, or (iv) Products that have been subject to: (a) any modifications, alterations, repair, or servicing by any party

other than Nest Labs or Nest Labs' authorized representatives; (b) handling, storage, installation, testing, or use not in accordance with the applicable Documentation; (c) abuse, negligence, neglect, accidents, abuse or misuse; (d) any breakdowns, fluctuations, or interruptions in electric power or the telecommunications network; or (e) any Acts of God, including fire, flood, tornado, earthquake, hurricane, excessive snow, lightning, riot, insurrection, act of war or other disaster.

6.

7. Warranty Disclaimer. EXCEPT TO THE EXTENT SET FORTH ABOVE IN THIS LIMITED WARRANTY, THE PRODUCTS ARE PROVIDED ON AN "AS IS" BASIS, AND NEST LABS DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE PRODUCTS, WHETHER IMPLIED, EXPRESS, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT OF THIRD-PARTY RIGHTS, QUIET ENJOYMENT, AND ACCURACY. NEST LABS DOES NOT WARRANT THAT OPERATION OF THE PRODUCTS WILL BE ERROR-FREE OR UNINTERRUPTED OR THAT THE PRODUCTS WILL IN EVERY CASE PROCESS ALL DATA CORRECTLY. LIMITATION OF LIABILITY

8.

9. 1. IN NO EVENT WILL (A) NEST LABS BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING ANY DAMAGES FOR LOST DATA OR LOST PROFITS, ARISING FROM OR RELATING TO THIS LIMITED WARRANTY OR THE PRODUCTS, EVEN IF NEST LABS KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) NEST LABS' TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATED TO THIS LIMITED WARRANTY AND THE PRODUCTS, WHETHER IN CONTRACT OR TORT OR OTHERWISE, EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO NEST LABS OR NEST LABS' AUTHORIZED RESELLER FOR THE PRODUCT AT ISSUE IN THE PRIOR 12 MONTHS (IF ANY). THIS LIMITATION IS CUMULATIVE AND WILL NOT BE INCREASED BY THE EXISTENCE OF MORE THAN ONE INCIDENT OR CLAIM. NEST LABS DISCLAIMS ALL LIABILITY OF ANY KIND OF NEST LABS' SUPPLIERS. 2. THE NEST LABS ONLINE SERVICES ("SERVICES") PROVIDE YOU INFORMATION ("PRODUCT INFORMATION") REGARDING YOUR ENERGY USE AND YOUR THERMOSTATS, HVAC, OR OTHER PERIPHERALS CONNECTED TO YOUR PRODUCT ("PRODUCT PERIPHERALS"). THE TYPE OF PRODUCT PERIPHERALS THAT MAY BE CONNECTED TO YOUR PRODUCT MAY CHANGE FROM TIME TO TIME. THE SERVICES MAY BE USED TO CONTROL YOUR PRODUCT PERIPHERALS (VIA THE PRODUCT). FOR

EXAMPLE, BUT WITHOUT LIMITATION, IF YOUR THERMOSTAT IS CONNECTED TO YOUR PRODUCT, YOU MAY CONTROL YOUR THERMOSTAT WITH THE SERVICES (VIA THE PRODUCT). WITHOUT LIMITING THE GENERALITY OF THE DISCLAIMERS ABOVE, ALL PRODUCT INFORMATION IS PROVIDED FOR YOUR CONVENIENCE, “AS IS”, AND “AS AVAILABLE”. WE DO NOT REPRESENT OR WARRANT THAT PRODUCT INFORMATION WILL BE AVAILABLE, ACCURATE, OR RELIABLE OR THAT PRODUCT INFORMATION OR USE OF THE SERVICES OR PRODUCT WILL DECREASE THE ENERGY CONSUMPTION OF YOUR HOME. YOU ARE SOLELY RESPONSIBLE FOR ALL ENERGY BILLS INCURRED BY YOUR HOME. YOU USE ALL PRODUCT INFORMATION, THE SERVICES, AND THE PRODUCT AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR (AND NEST LABS DISCLAIMS) ANY AND ALL LOSS, LIABILITY, OR DAMAGES, INCLUDING TO YOUR HVAC SYSTEM, PLUMBING, HOME, PRODUCT, PRODUCT PERIPHERALS, COMPUTER, MOBILE DEVICE, AND ALL OTHER ITEMS AND PETS IN YOUR HOME, RESULTING FROM YOUR USE OF THE PRODUCT INFORMATION, SERVICES, OR PRODUCT. PRODUCT INFORMATION IS NOT INTENDED AS A SUBSTITUTE FOR DIRECT MEANS OF OBTAINING THE INFORMATION, E.G., READING YOUR THERMOSTAT.

10.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY UNDER THIS LIMITED WARRANTY WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.