

Nest.com has moved to the Google Store. [Learn more >](#)



Legal Items

Terms of Service



Legal Items

- [Privacy Policy for Nest Web Sites](#)
- [Privacy Statement for Nest Products and Services](#)
- [Authorized Professional Reseller Brand Features License Agreement](#)
- [Terms of Service](#)
- [End User License Agreement](#)
- [Limited Warranty](#)
- [Pro Checkup Service Terms and Conditions](#)
- [Open Source Compliance](#)
- [Pro Sales Terms](#)
- [Sales Terms](#)
- [Intellectual Property and Other Notices](#)
- [Community Forum Agreement](#)
- [FCC Compliance Notice](#)
- [Customer Agreements for Rush Hour Rewards](#)
- [Customer Agreements for Rebates](#)
- [Customer Agreements for Safety Rewards](#)
- [Installation Terms and Conditions](#)
- [Transparency Report](#)
- [Modern Slavery Statement](#)

Terms of Service

Note: If you use your Nest devices and services with a Google Account, then you are subject to the Google [Terms of Service](#) and these supplemental [Nest Terms of Service](#).

Our Terms of Service were updated on March 5, 2020.

Nest Labs, Inc. and its subsidiaries (collectively, “Nest”) provides (1) the Nest website located at www.nest.com, and all associated sites linked to www.nest.com, including the Nest user account website that may be accessed at home.nest.com or www.dropcam.com, and the Nest Pro website that may be accessed at pro.nest.com (each a “Site”), (2) services accessible through the Sites (“Web Apps”), (3) software that may be downloaded to your smartphone or tablet to access services (“Mobile Apps”), and (4) subscription services, including services that can be accessed using the Web Apps and Mobile Apps (“Subscription Services”), all for use in conjunction with

Nest hardware products (“Products”) and in other ways that Nest provides. Some Nest Products and Services can be used together or in ways that integrate with products and services from third parties. The term “Services” means the Sites, Web Apps, Mobile Apps, and Subscription Services.

These Terms of Service (“Terms” or “Agreement”) govern your access to, and use of, the Services and Products. Please read these Terms carefully. They require the use of mandatory binding arbitration to resolve disputes rather than jury trials or group litigation. Please follow the instructions in the Dispute Resolution and Arbitration Section below if you wish to opt out of this provision. The term “you”, as used in these Terms, means any person or entity who accesses or uses the Services or Products and any person or entity who creates an Account (as defined in Section 2(a) and accepts these Terms, including Owners, Authorised Users (as defined in Section 2(b), and the parents or guardians of Authorised Users, as applicable (as described in Section 1((b)(ii)). These Terms give you specific legal rights. In addition, you may also have other legal rights which vary from jurisdiction to jurisdiction. The disclaimers, exclusions, mandatory and binding arbitration, limitations of liability, indemnification, waiver of jury trial, waiver of class action under these Terms will not apply to the extent prohibited by applicable law. Some jurisdictions do not allow the exclusion of implied warranties or the exclusion or limitation of incidental or consequential damages or other rights, so those provisions of these Terms may not apply to you.

THESE TERMS ARE A LEGAL AGREEMENT. BY ACCEPTING THESE TERMS THROUGH A SITE, WEB APP OR MOBILE APP, OR BY ACCESSING AND USING THE SERVICES (INCLUDING THE SITES) OR PRODUCTS, YOU ARE ACCEPTING AND AGREEING TO THESE TERMS ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT IN CONNECTION WITH THE ACCESS AND USE. YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY AND CAPACITY (SUBJECT TO SECTION 1(b)(ii) BELOW) TO ACCEPT AND AGREE TO THESE TERMS ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT. YOU REPRESENT THAT YOU ARE, SUBJECT TO SECTION 1(b)(ii) BELOW, OF SUFFICIENT LEGAL AGE IN YOUR JURISDICTION OR RESIDENCE TO USE OR ACCESS THE SERVICES AND PRODUCTS AND TO ENTER INTO THIS AGREEMENT. IF YOU DO NOT AGREE WITH ANY OF THE PROVISIONS OF THESE TERMS, YOU SHOULD DISCONNECT YOUR PRODUCTS FROM YOUR ACCOUNT (AS DESCRIBED BELOW) AND CEASE ACCESSING OR USING THE SERVICES AND PRODUCTS.

AS DESCRIBED BELOW, YOU ARE CONSENTING TO AUTOMATIC SOFTWARE UPDATE OF THE SERVICES AND OF THE PRODUCTS CONNECTED TO THE SERVICES. IF YOU DO NOT AGREE, YOU SHOULD NOT USE THE SERVICES AND PRODUCTS.

AS DESCRIBED BELOW, SECTIONS 4 AND 5 DESCRIBE IMPORTANT LIMITATIONS OF THE SERVICES AND PRODUCTS, ESPECIALLY IN CONNECTION WITH LIFE SAFETY AND CRITICAL USES. PLEASE READ THESE DISCLOSURES CAREFULLY, AS YOU ARE ACKNOWLEDGING THEM AND ACCEPTING THEM.

1. Overview, Eligibility, Customer Service, Term and Termination

(a) Overview and Relation to Other Agreements. These Terms govern your use of the Services and Products. Your purchase of any Product is governed by the limited warranty provided with that Product (“Limited Warranty”) and may further be governed by the [Terms & Conditions of Sale](#). The software embedded in the Product (and any updates thereto) (“Product Software”) is licensed and governed by the [End User License Agreement](#). Certain features of the Services may be subject to additional guidelines, terms or rules, which will be posted on the Services in connection with such features. All additional guidelines, terms or rules and the [Website Privacy Policy](#) (“Website Privacy Policy”) and the [Privacy Statement](#) (“Privacy Statement”) are incorporated by reference into these Terms and you are agreeing to accept and abide by them by using the Services and Products.

(b) Eligibility. (i) You may use the Services and Products only if you have the legal capacity to form a binding contract with Nest (except subject to the provisions of clause (1)(b)(ii) below), you accept these Terms through a Site, Web App or Mobile App, or by accessing or using the Services or Products, and only if you are in compliance with these Terms and all applicable local, state/provincial, national and international laws, rules and regulations. Only individuals aged 18 and older are permitted to act as Owners of Nest Accounts. (ii) If you are an Authorised User, you represent and warrant that you are over the age of 13 (or equivalent minimum age in the jurisdiction where you reside), and in the event you are between the age of 13 (or equivalent minimum age in the jurisdiction where you reside) and the age of majority in the jurisdiction where you reside, that you will only use the Services and Products under the supervision of a parent or legal guardian who agrees to be bound by these Terms on your behalf. Any use or access to the Services and Products by individuals under the age of 13 (or the equivalent minimum age in the jurisdiction where you reside) is strictly prohibited and is a violation of these Terms. The Services and Products are not available to any users previously prohibited from using the Services and Products by Nest.

(c) Customer Service. If you have any questions or concerns regarding the Products, the Services or these Terms, please contact Nest. You understand and agree that customer service and any customer care and support offered and provided by Nest is not a 911 service or dispatch center, an emergency service provider or dispatch service, or a lifesaving solution for people at risk in their home or otherwise. **PLEASE DO NOT CONTACT CUSTOMER SERVICE OR ANY CUSTOMER CARE AND SUPPORT OFFERED BY NEST WITH ANY LIFE/SAFETY EMERGENCY, MEDICAL EMERGENCY, OR ANY OTHER EMERGENCY. IF YOU HAVE ANY SUCH EMERGENCY, YOU SHOULD IMMEDIATELY CONTACT THE POLICE, FIRE DEPARTMENT, 911 OR APPROPRIATE EMERGENCY RESPONSE SERVICE.**

(d) Term and Termination. These Terms will remain in full force and effect as long as you continue to access or use the Services or Products, or until terminated in accordance with the provisions of these Terms. At any time, Nest may (i) suspend or terminate your rights to access or use the Services, or (ii) terminate these Terms with respect to you if Nest, in good faith, believes that you have used the Services or Products in violation of these Terms, including any incorporated guidelines, terms or rules. If you transfer a Product to a new owner, your right to use the Services with respect to that Product automatically terminates and the new owner will have no right to use the Product or Services under your Account (as described below) and will need to register for a separate Account with Nest and accept these Terms.

(e) Effect of Termination. Upon termination of these Terms, your Account and your right to use the Services will automatically terminate.

2. Accounts

(a) Your Account. To use certain Services and Products, you must register for a user account ("Account") and provide certain information about yourself, as prompted by the applicable registration form. You represent and warrant that: (a) all required registration information that you submit is truthful and accurate; (b) you will maintain the accuracy of such information; and (c) your use of the Services and Products will not violate any US or other applicable law or regulation (e.g., you are not located in an embargoed country or are not listed as a prohibited or restricted party under applicable export control laws and regulations). You are entirely responsible for maintaining the confidentiality of your Account login information and for all activities that occur under your Account. You agree to use "strong" passwords (passwords that use a combination of upper- and lower-case letters, numbers and symbols) with your Account and to maintain your password securely to prevent others from gaining access. You agree to immediately notify Nest of any unauthorised use or suspected unauthorised use of your Account, or any other breach of security. Nest is not liable for any loss or damage arising from your failure to comply with the above requirements.

(b) The individual who creates an Account is the "Owner" of that Account and is the Owner of the Products associated with that Account. Individuals who are authorised to access an Owner's Products and Services are "Authorised Users". Authorised Users may have the ability to use the Services and monitor and control the

Products (for example, an Authorised User can change your heating and cooling schedule or turn your camera on or off). Authorised Users may also have the ability to view information (including personal information) and content across all of an Owner's Products, Services and Works with Nest connections (for example, an Authorised User will receive mobile alerts or can view your video history). Authorised Users are responsible for their own actions in connection with the Products and Services, but the Owner also hereby agrees to be fully responsible for all actions taken by Authorised Users relating to the Owner's Products, Services and Account. If you are an Owner who invites or enables an Authorised User, you acknowledge and agree that said Authorised User may subsequently invite or enable other Authorised Users with the same access and ability to use your Products and Services set out above. As a result, if you are an Owner, you should only authorise those individuals whom you trust to access your Account, Products and Services.

3. Access to Services

(a) Access and Use. Subject to these Terms, Nest grants you a non-transferable, non-exclusive right (without the right to sub-license) to access and use the Services by (i) using the Web Apps in connection with, and solely for the purpose of, controlling and monitoring the Products you own or are authorised to control and monitor or otherwise accessing a service explicitly provided by Nest for your use (the "Permitted Purpose"), (ii) installing and using the Mobile Apps solely on your own handheld mobile device (e.g., iPhone, iPad or Android smartphone) and solely for the Permitted Purpose, and (iii) accessing the Sites solely for the Permitted Purpose.

(b) Automatic Software Updates. Nest may, from time to time, develop patches, bug fixes, updates, upgrades and other modifications to improve the performance of the Services and/or the Product Software ("Updates"). These may be automatically installed without providing any additional notice or receiving any additional consent. You consent to this automatic update. If you do not want such Updates, your remedy is to terminate your Account and stop using the Services and the Products. If you do not terminate a previously created Account, you will receive Updates automatically. You acknowledge that you may be required to install Updates to use the Services and the Products and you agree to install any Updates that Nest provides promptly. Your continued use of the Services and the Products is your agreement – (i) to these Terms with respect to the Services and Products, and (ii) to the [End User License Agreement](#) with respect to updated Product Software; and (iii) any change or updates that Nest may make to these Terms or the End User License Agreement over time.

(c) Nest-provided interface to Third-Party Products and Services. Over time, Nest may provide the opportunity for you to interface the Products and Services to one or more third-party products and services, through and using the Services, for example through the Works with Nest platform ("Third-Party Products and Services"). You decide whether you want to interface, and with which Third-Party Products and Services you want to interface. Your explicit consent and authorisation is required for this interface and is revocable by you at any time. Once your consent is given for a particular Third-Party Product and Service, you agree that Nest may exchange information and control data regarding you and your products, including your personal information, in order to enable the interface that you have authorised. Once this information is shared with the particular Third-Party Product and Service, its use will be governed by the third party's privacy policy and not by Nest's privacy documentation. You acknowledge and agree that Nest makes no representation or warranty about the quality or safety of any Third-Party Products or Services or the interface with Product and Services. Accordingly, Nest is not responsible for your use of any Third-Party Product or Service, or any personal injury, death, property damage (including, without limitation, to your home), or other harm or losses arising from or relating to your use of any Third-Party Products or Services. You should contact the third party with any questions about their Third-Party Products and Services.

(d) Certain materials may be displayed or performed on the Services (including, but not limited to, text, graphics, articles, photographs, video, images and illustrations ("Content")). The Content also includes information that you and other users provide us with in the course of using the Services (collectively, "User Submissions"), which we may use to provide, maintain and improve the Services. Some Content may be visible to others (for example, the Services allows you to upload, post or otherwise share video content). You may also

post feedback, comments, questions or other information on the Sites. You are solely responsible for all Content that you upload, post, email, transmit or otherwise disseminate using, or in connection with, the Services, or that you contribute in any manner to the Services; you represent and warrant that you have all rights necessary to do so, in the manner in which you contribute it; and you license to Nest all patent, trademark, trade secret, copyright or other proprietary rights in and to such Content for publication on the Service pursuant to these Terms. You shall abide by all copyright notices, trademark rules, information and restrictions contained in any Content accessed through the Services, and shall not use, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, display, license, sell or otherwise exploit for any purposes whatsoever any Content or third-party submissions or other proprietary rights not owned by you: (i) without the express prior written consent of the respective owners, and (ii) in any way that violates any third-party right. Nest reserves the right to remove any Content from the Services at any time, for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content or if we are concerned that you may have breached the immediately preceding sentence), or for no reason at all.

(e) Certain Restrictions. The rights granted to you in these Terms are subject to the following restrictions: (i) you agree not to license, sell, rent, lease, transfer, assign, distribute, host or otherwise commercially exploit the Services or Products; (ii) you agree not to modify, make derivative works of, disassemble, reverse-compile or reverse-engineer any part of the Services or Products; (iii) you agree not to access the Services or Products in order to build a similar or competitive service or product; (iv) except as expressly stated herein, no part of the Services or Products may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; (v) you agree not to upload, transmit or distribute any computer viruses, worms or any software intended to damage or alter a computer or communications network, computer, handheld mobile device, data, the Services, the Products, the Product Software or any other system, device or property; (vi) you agree not to interfere with, disrupt or attempt to gain unauthorised access to the servers or networks connected to the Services or violate the regulations, policies or procedures of such networks; (vii) you agree not to access (or attempt to access) any of the Services by means other than through the interface that is provided by Nest; and (viii) you agree not to remove, obscure or alter any proprietary rights notices (including copyrights and trademark notices) that may be contained in, or displayed in connection with, the Services or Products. Any future release, update or other addition to functionality of the Services shall be subject to these Terms.

(f) Open Source. Certain items of independent, third-party code may be included in the Web Apps and/or Mobile Apps that are subject to the GNU General Public License (“GPL”) or other open-source licences (“Open-Source Software”). The Open-Source Software is licensed under the terms of the licence that accompanies such Open-Source Software. Nothing in these Terms limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable end-user licence for such Open-Source Software. In particular, nothing in these Terms restricts your right to copy, modify and distribute such Open-Source Software that is subject to the terms of the GPL.

(g) Privacy. Please review Section 4(m) below, the Privacy Policy for Nest Web Sites and the Privacy Statement for Nest Products and Services. These documents describe practices regarding the information that you or Nest may collect from users of the Products and Services, including any Content or User Submissions.

(h) Security. Nest cares about the integrity and security of your personal information. We endeavor to implement appropriate security measures. However, Nest cannot guarantee that unauthorised third parties will never be able to defeat our security measures or use your personal information for improper purposes. You acknowledge that you provide your personal information at your own risk.

(i) Modification. Nest reserves the right, at any time, to modify, suspend or discontinue the Services or any part thereof with or without notice. You agree that Nest will not be liable to you or to any third party for any modification, suspension or discontinuance of the Services or any part thereof.

(j) Access Outside Certain Countries. Although the Sites are accessible worldwide, the Products and Services provided or accessed through or on the Sites are not available to all persons or in all countries. If you choose to

access the Sites from outside a country in which Nest supports the Product and Services listed here (“Target Country”), you do so on your own initiative and you are solely responsible for complying with applicable local laws in your country. You understand and accept that the Sites are not designed for use in a non-Target Country and that some, or all, of the features of the Sites may not work or be appropriate for use in such a country. To the extent permissible by law, Nest accepts no responsibility or liability for any damage or loss caused by your access or use of the Sites or Nest Products in a non-Target Country. You will be bound by these Terms wherever you access or use the Sites or the Services.

4. Agreed Usage and Limitations of Nest Services and Products

(a) **Intended Use of Nest Services.** The Services are intended to be accessed and used for non-time-critical information and control of Nest Products. While we aim for the Services to be highly reliable and available, they are not intended to be reliable or available 100% of the time. The Services are subject to sporadic interruptions and failures for a variety of reasons beyond Nest’s control, including Wi-Fi intermittency, service provider uptime, mobile notifications and operators, among others. You acknowledge these limitations and agree that Nest is not responsible for any damages allegedly caused by the failure or delay of the Services.

(b) **No Life Safety or Critical Uses of the Products and Services.** You acknowledge and agree that the Products and Services, whether standing alone or when interfaced with Third-Party Products or Services, are not certified for emergency response, unless expressly approved and certified by Nest as enabled for central station monitoring through a professional central station monitoring facility (“Pro Monitoring Enabled Nest Products”). Nest makes no warranty or representation that use of the Products (including, without limitation, any Pro Monitoring Enabled Nest Product) or Services with any Third-Party Product or Service will affect or increase any level of safety. **YOU UNDERSTAND THAT, EXCEPT FOR PRO MONITORING ENABLED NEST PRODUCTS, THE PRODUCTS AND SERVICES, WHETHER STANDING ALONE OR INTERFACED WITH THIRD-PARTY PRODUCTS OR SERVICES, ARE NOT A THIRD-PARTY MONITORED EMERGENCY NOTIFICATION SYSTEM. FURTHER, YOU UNDERSTAND THAT UNDER NO CIRCUMSTANCES WILL NEST DISPATCH EMERGENCY SERVICES TO YOUR HOME IN THE EVENT OF AN EMERGENCY.**

(c) **Central Station Monitoring for Pro Monitoring Enabled Nest Products.** For Pro-Monitoring Enabled Nest Products, you may be given the option of selecting a subscription plan with a third-party professional central monitoring provider (the “Third-Party Monitoring Provider”) for professional monitoring and related emergency notification and dispatch of emergency authorities (“Pro-Monitoring”). You understand and agree that if you select a Pro Monitoring subscription plan, you are contracting directly with the Monitoring Provider to provide the Pro Monitoring; you are not contracting with Nest to provide the Pro Monitoring and Nest will not be providing the Pro Monitoring. You further understand that the Monitoring Provider and Nest are independent operating companies. There is no legal partnership, agency, joint venture, employer/employee, master/servant, or other similar legal relationship between the Monitoring Provider and Nest, and the Monitoring Provider is not a subcontractor of Nest. **YOU UNDERSTAND AND AGREE THAT PRO MONITORING WILL ONLY WORK WITH PRO MONITORING ENABLED NEST PRODUCTS. DO NOT USE OR ATTEMPT TO USE PRO MONITORING WITH ANY PRODUCTS, WHETHER MANUFACTURED OR SOLD BY NEST OR THIRD PARTIES, THAT ARE NOT PRO MONITORING ENABLED NEST PRODUCTS.**

(d) **Permits and Registration for Pro Monitoring.** Some local governments have various permit or registration requirements for use of the Products with Pro Monitoring. Without the required permit or registration, emergency responders may not respond to requests from a Third-Party Monitoring Provider for emergency dispatch, and/or fines and penalties may be levied against you by the applicable local government. You understand and agree that you are solely responsible for obtaining, maintaining and renewing any permit or registration that may be required by your local government in the event you select a subscription plan for Pro Monitoring of the Products. Further, you agree to be solely responsible for any fines and penalties that may be assessed against you arising from your failure to obtain, maintain and renew any applicable permits or registrations.

(e) Reliability of Services. You acknowledge that the Services, including remote access and mobile notifications, are not error-free or 100% reliable and 100% available. Proper functioning of the Services relies and is dependent on, among other things, the transmission of data through your wi-fi network, enabled wireless device (such as a phone or tablet) and broadband internet access, or optional Cellular Backup service, for which neither Nest nor any wireless or data carrier is responsible, and may be interrupted, delayed, refused, or otherwise limited for a variety of reasons, including insufficient coverage, power outages, termination of service and access, environmental conditions, interference, non-payment of applicable fees and charges, unavailability of radio frequency channels, system capacity, upgrades, repairs or relocations, and priority access by emergency responders in the event of a disaster or emergency (collectively, "Service Interruptions"). You understand that Service Interruptions may result in the Services being unreliable or unavailable for the duration of the Service Interruption. We cannot and do not guarantee that you will receive notifications within any given time, or at all. **YOU AGREE THAT YOU WILL NOT RELY ON THE SERVICES FOR ANY LIFE SAFETY OR CRITICAL PURPOSES. MOBILE NOTIFICATIONS REGARDING THE STATUS AND ALARMS ON YOUR NEST PRODUCTS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY – THEY ARE NOT A SUBSTITUTE FOR A THIRD-PARTY MONITORED EMERGENCY-NOTIFICATION SYSTEM.** There is no way for Nest to provide specific information relating to a situation in your home or elsewhere. You acknowledge that it is your responsibility to educate yourself on how to respond to an emergency and to respond according to the specifics of your situation.

(f) Service Interruptions; no refund or rebate. The Services may be suspended temporarily, without notice, for security reasons, systems failure, maintenance and repair, or other circumstances. You agree that you will not be entitled to any refund or rebate for such suspensions. Nest does not offer any specific uptime guarantee for the Services.

(g) System Requirements. The Services will not be accessible without: (i) a working Wi-Fi network in your home that is positioned to communicate reliably with the Products; (ii) an Account; (iii) an enabled and supported wireless device, such as a phone or tablet (required for some features and functionalities of the Service); (iv) always-on broadband Internet access in your home with bandwidth sufficient to support the Products you use; and (v) other system elements that may be specified by Nest. It is your responsibility to ensure that you have all required system elements and that they are compatible and properly configured. You acknowledge that the Services may not work as described when the requirements and compatibility have not been met. If you modify, substitute, move, or otherwise change any of the required system elements, it is your sole duty and responsibility to be sure they are compatible and properly configured to work with the Products and Services. In addition, you acknowledge that Nest may activate Bluetooth on your smartphone or tablet, with or without prior notification, in order to facilitate proper operation of the Services, enable communication with Nest Products connected to the same Nest account and enable certain features (such as remote silencing of a smoke or CO alarm on Nest Protect).

(h) Cellular Back-Up in Case of Wi-Fi Outage. In the event of any Service Interruptions to your home's Wi-Fi network or internet connection, the Services may be unreliable or unavailable for the duration of the Service Interruption. If you have subscribed for Pro Monitoring, this means that the Third-Party Monitoring Provider may not receive alarm signals from your Pro Monitoring Enabled Nest Products to provide Pro Monitoring, and may be unable to dispatch emergency responders in the event of an actual emergency. Further, features and functionalities of the Products and Services may be unavailable on your Mobile App for the duration of the Service Interruption. You may have an option of selecting a cellular back-up subscription plan ("Cellular Backup") to help improve connectivity in the event of any Service Interruption and decrease the likelihood of interruption of the Services (including Pro Monitoring) and access to the various features and functionalities of your Products and Services on your Mobile App.

(i) Energy Savings and Other Benefits. Unless explicitly promising a "guarantee", Nest does not guarantee or promise any specific level of energy savings or other monetary benefit from the use of the Products or Services or any feature thereof. Actual energy savings and monetary benefits vary depending on factors beyond Nest's control or knowledge. From time to time, Nest may use the Services to provide you with information that is unique to you and your energy usage and suggest an opportunity to save money on energy bills if you adopt

suggestions or features of the Product or Services. We do this to highlight an opportunity based on our analysis and information about you and your household. You acknowledge that these promotions are not a guarantee of actual savings and you agree not to seek monetary or other remedies from Nest if your savings differ.

(j) The Services provide you with information (“Product Information”) regarding the Products in your home and their connection with other products and services. All Product Information is provided “as is” and “as available”. We cannot guarantee that it is correct or up to date. In cases where it is critical, accessing Product Information through the Services is not a substitute for direct access of the information in the home.

(k) All information publicly posted or privately transmitted through the Services is the sole responsibility of the person from whom (or from whose account) such Content originated and Nest will not be liable for any errors or omissions in any Content. Nest cannot guarantee the identity of any other users with whom you may interact in the course of using the Services. In addition, we cannot guarantee the authenticity of any data that users or merchants may provide about themselves. You acknowledge that all Content accessed by you using the Services is at your own risk and you will be solely responsible for any damage or loss to any party resulting therefrom. We cannot control and have no duty to take any action regarding how you may interpret and use the Content or what actions you may take as a result of having been exposed to the Content, and you hereby release us from all liability for you having acquired or not acquired Content through the Services.

(l) You warrant, represent and agree that you will not contribute any Content or otherwise use the Services or Products in a manner that (i) infringes or violates the intellectual property rights or proprietary rights, rights of publicity or privacy or other rights of any third party; (ii) violates any law, statute, ordinance or regulation or is otherwise illegal; (iii) is harmful, fraudulent, deceptive, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libellous or otherwise objectionable; (iv) impersonates any person or entity, including, without limitation, any employee or representative of Nest; (v) contains a virus, Trojan Horse, worm, time bomb or other harmful computer code, file or programme; (vi) jeopardises the security of your Nest Account or anyone else’s Account (such as allowing someone else to log into the Services as you); (vii) attempts, in any manner, to obtain or access the password, account, products, devices, systems, or other security information from any other user or third party; (viii) violates the security of any computer network or cracks any passwords or security encryption codes; (ix) runs Maillist, Listserv or any form of auto-responder or “spam” on the Services or any processes that otherwise interfere with the proper working of the Services (including by placing an unreasonable load on the Services’ infrastructure); (x) copies or stores any significant portion of the Content; (xi) decompiles, reverse-engineers or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Services; (xii) denigrates or disrupts any network capacity or functionality; or (xiii) engages in remote monitoring to provide professional medical care for any individual, including without limitation, in any health care and assisted living environment.

(m) Privacy and Data Protection Laws. Nest Products and Services are primarily intended for purely personal and household use. Nonetheless, data protection and privacy laws where you live may impose certain responsibilities on you and your use of the Products and Services. For certain video, audio, and facial recognition data that you collect using Products and Services (e.g., video and audio signals and data from Nest Cam) as an Owner or Authorised User, you are the controller of certain data these Products and Services collect, and Nest is the processor of that data, under applicable laws. For more information, see the [Privacy Statement for Nest Products and Services](#). You agree that you (and not Nest) are responsible for ensuring that you comply with any applicable laws when you use the Products and Services, including, but not limited to, (i) any laws relating to the recording or sharing of video or audio content that includes third parties or public spaces, or (ii) any laws requiring notice to third parties, or consent or explicit consent of third parties with respect to your use of Dropcam/Nest Cam.

Where Nest is acting as a processor of data you have collected through its Products and Services, it will explicitly state this in the Nest Privacy Statement for Products and Services. In these situations, Nest will endeavor to: (i) only process data at your instruction; (ii) ensure that persons permitted to process data through us on your behalf are committed to confidentiality; (iii) only engage a third party service provider (sub-processor) that provide an equivalent level of protection as set forth herein; (iv) engage a new third-party service

provider (sub-processor) only after Nest has provided notice of such changes by posting to the website listed below and allowed you ten (10) calendar days to object after notice is given. In the event you do object, Nest will make reasonable efforts to address your objection. After this process, if a resolution has not been agreed to within five (5) calendar days, Nest will proceed with engaging the third-party service provider. You will have the opportunity to terminate your use of Products and Services without penalty. The list of Nest sub-processors can be found [here](#). It is your responsibility to check this website regularly for updates; (v) to the extent applicable and possible, assist you with any individual rights requests or other compliance obligations; and (vi) delete or return your data upon termination.

(n) Installation, test and use. It is your responsibility to install and use the Products and Services pursuant to the applicable manual and instructions. IF A PRODUCT IS NOT PROPERLY INSTALLED, OR IF A PRODUCT OR ANY OF ITS SENSORS ARE OUTSIDE THE DETECTION RANGE OR HINDERED OR OBSTRUCTED BY WALLS, FURNITURE, PERSONAL PROPERTY OR OTHER THINGS, YOU MAY EXPERIENCE FALSE ALARMS OR DETECTION FAILURES. It is your responsibility to test the Products once installed to be sure the Products (and any related sensors, components and peripherals) are functioning and communicating as intended and designed, and then regularly test and maintain the Products after installation.

(o) Check batteries regularly. It is your responsibility to replace any batteries for the Products, when necessary. YOU UNDERSTAND AND AGREE THAT THE PRODUCTS MAY NOT FUNCTION OR PROPERLY FUNCTION IF BATTERIES NEED REPLACEMENT; PLEASE CHECK THEM REGULARLY.

(p) Smoke and Carbon Monoxide detectors. NEST MAKES NO WARRANTY OR REPRESENTATION THAT ANY SMOKE AND/OR CARBON MONOXIDE DETECTORS MANUFACTURED OR SOLD BY NEST CONSTITUTE A FIRE ALARM SYSTEM OR MEET THE REQUIREMENTS OF ANY STATE OR LOCAL LAW, CODE, ORDINANCE, AUTHORITY HAVING JURISDICTION OR INDUSTRY STANDARD, SUCH AS NFPA 72. YOU ARE SOLELY RESPONSIBLE FOR COMPLIANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATE OR LOCAL LAW, CODE, ORDINANCE, AUTHORITY HAVING JURISDICTION OR INDUSTRY STANDARD THAT MAY APPLY TO THE INSTALLATION, USE AND SERVICE OF ANY SMOKE AND/OR CARBON MONOXIDE DETECTORS MANUFACTURED OR SOLD BY NEST.

(q) Smart device standards/Use only Nest Certified Third-Party Products or Services. The Products may use various open or commonly available standards or means to communicate and work with smart or connected devices that are also similarly used by other systems or services not manufactured by Nest, including Wi-Fi, Bluetooth, and IP devices. HOWEVER, SMART, CONNECTED OR OTHER DEVICES AND RELATED SERVICES ("THIRD-PARTY PRODUCTS AND SERVICES") THAT ARE NOT DESIGNATED BY NEST AS COMPATIBLE WITH THE PRODUCTS AND SERVICE MAY NOT WORK WITH THE PRODUCTS AND SERVICES, OR MAY HAVE LIMITED FEATURES OR FUNCTIONALITY, EVEN IF DESIGNED, SPECIFIED OR MARKETING TO OPERATE USING THE SAME OR SIMILAR STANDARDS OR MEANS OF COMMUNICATION. YOU AGREE ONLY TO USE THIRD-PARTY PRODUCTS AND SERVICES DESIGNATED BY NEST AS COMPATIBLE WITH THE PRODUCTS AND SERVICES. FURTHER, YOU AGREE THAT NEST IS NOT RESPONSIBLE FOR, AND YOU HEREBY RELEASE AND HOLD NEST HARMLESS FROM AND AGAINST, ALL LIABILITY AND DAMAGES, INJURIES OR LOSS OF LIFE ARISING FROM, RELATED TO, OR CAUSED BY, ANY ATTEMPT BY YOU TO CONNECT, OR YOUR CONNECTION AND USE OF, THIRD-PARTY PRODUCTS OR SERVICES THAT ARE NOT CERTIFIED BY NEST AS COMPATIBLE WITH THE PRODUCTS AND SERVICES.

(r) Nest Pro Finder. Nest provides a service that allows prospective customers to search for a Nest Pro near them that is available to install a Product ("Nest Pro Finder"). If you choose to register as a Nest Pro, note that Nest uses algorithms to display and rank Nest Pros on the Nest Pro Finder based on certain factors such as reviews, recency of reviews, and geo-proximity to the prospective customer.

5. Limitations of Nest Services Due to Third Parties

(a) General. Nest Services rely on or inter-operate with third-party products and services. These third-party products and services are beyond Nest's control, but their operation may impact on, or be impacted by, the use and reliability of the Nest Services. You acknowledge and agree that: (i) the use and availability of the Services is dependent on third-party product vendors and service providers, (ii) these third-party products and services may not operate in a reliable manner 100% of the time and they may impact on the way that the Nest Services operate, and (iii) Nest is not responsible for damages and losses due to the operation of these third-party products and services.

(b) Third-Party Service Providers Used By Nest. You acknowledge that Nest uses third-party service providers to enable some aspects of the Services – such as, for example, data storage, Cellular Back-up, synchronisation and communication through Amazon Web Services and mobile device notifications through mobile operating system vendors and mobile operators. YOU AGREE NOT TO RELY ON THE SERVICES FOR ANY LIFE SAFETY OR TIME-CRITICAL PURPOSES. FURTHER, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE TO RELEASE AND HOLD HARMLESS THIRD-PARTY SERVICE PROVIDERS FROM ALL LIABILITY, DAMAGES OR LOSSES OF ANY KIND OR SORT, PERSONAL INJURY OR LOSS OF LIFE ARISING FROM YOUR USE OF THE PRODUCTS AND SERVICES.

(c) Equipment, ISP and Operator. You acknowledge that the availability of the Services is dependent on (i) your computer, mobile device, home wiring, home Wi-Fi network, Bluetooth connection and other related equipment ("Equipment"), (ii) your Internet service provider ("ISP") and (iii) your mobile device operator ("Operator"). You acknowledge that you are responsible for all fees charged by your ISP and Operator in connection with your use of the Services. You also acknowledge that you are responsible for compliance with all applicable agreements, terms of use/service and other policies of your ISP and Operator.

(d) App Stores. You acknowledge and agree that the availability of the Mobile Apps is dependent on the third-party websites from which you download the Mobile Apps, e.g., the Google Play Store from Google or the App Store from Apple (each an "App Store"). You acknowledge that these Terms are between you and Nest and not with an App Store. Each App Store may have its own terms and conditions to which you must agree before downloading Mobile Apps from it. You agree to comply with such App Store terms and conditions, and your licence to use the Mobile Apps is conditioned upon your compliance with such App Store terms and conditions. To the extent that such other terms and conditions from such App Store are less restrictive than or otherwise conflict with the terms and conditions of these Terms, the more restrictive or conflicting terms and conditions in these Terms apply.

(e) Third-Party Website Links and Referrals. The Sites may contain links to other websites operated by third parties ("Third-Party Sites") and referrals to third-party vendors ("Referred Vendors"). Such Third-Party Sites and Referred Vendors are not under our control. Nest provides these links and referrals only as a convenience and does not review, approve, monitor, endorse, warrant or make any representations with respect to such Third-Party Sites or Referred Vendors. Your use of these Third-Party Sites is at your own risk.

(f) Authorised Users. Nest is not responsible for any Authorised User's behaviour, or for any personal injury, death, property damage (including, without limitation, to your home), or other harm or losses arising from or relating to their use of the Services.

(g) Release Regarding Third Parties. Nest is not responsible for third parties or their products and services, including, without limitation, the App Stores, Third-Party Products and Services, Third-Party Sites, Referred Vendors, Equipment, ISP and Operators. Nest hereby disclaims, and you hereby discharge, waive and release Nest and its licensors and suppliers from any past, present and future claims, liabilities and damages, known or unknown, arising out of or relating to your interactions with such third parties and their products and services. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOUR AT THE TIME OF EXECUTING THE RELEASE WHICH, IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT

WITH THE DEBTOR.” YOU HEREBY WAIVE ANY SIMILAR PROVISION IN ANY OTHER JURISDICTION.

6. Ownership and Intellectual Property

(a) Nest Property. You acknowledge that all intellectual property rights, including, without limitation, copyrights, patents, trademarks and trade secrets, in the Product, Product Software and Services (i.e., the Sites, Web Apps and Mobile Apps) are owned by Nest or its affiliates or our licensors. Your possession, access to and use of the Product, Product Software and Services do not transfer to you or any third party any rights, title or interest in or to such intellectual property rights. Nest, and its affiliates and licensors and suppliers, reserve all rights not granted in these Terms. The Services are licensed to you, not sold, under these Terms.

You may only copy parts of the Services (including this Site) onto your own computer for your own personal use. You may not use the content of the Services in any other public or commercial way, nor may you copy or incorporate any of the content of the Services into any other work, including your own website, without the written consent of Nest. You must have a licence from us before you can post or redistribute any portion of the Services. Other than with respect to User Submissions, Nest retains full and complete title to all content on the Services, including any downloadable software and all data that accompanies it. You must not copy, modify or in any way reproduce or damage the structure or presentation of the Services, or any content therein.

(b) Feedback. You may choose to or Nest may invite you to submit comments, suggestions or ideas about the Products or Services, including how to improve the Products or Services (“Ideas”). By submitting any Ideas, you agree that your submissions are voluntary, gratuitous, unsolicited and without restriction, and will not place Nest under any fiduciary or other obligation. Nest may use, copy, modify, publish or redistribute the submission and its contents for any purpose and in any way without any compensation to you. You also agree that Nest does not waive any rights to use similar or related ideas previously known to Nest, developed by its employees or obtained from other sources.

(c) User Submissions. You hereby grant us a non-exclusive, worldwide, royalty-free, perpetual, irrevocable, sub-licensable and transferable right to access, display or otherwise use your User Submissions (including all related intellectual property rights) solely in connection with providing you with the Services and as directed by you. You also hereby do and shall grant to each user of the Services a non-exclusive licence to access and use your User Submissions through the Services and as permitted through the functionality of the Services and under these Terms. Furthermore, you understand that we retain the right to reformat, modify, create derivative works of, excerpt and translate any User Submissions submitted by you. For clarity, the foregoing licence grant to Nest does not affect your ownership of or right to grant additional licences to the material in your User Submissions, unless otherwise agreed in writing.

7. INDEMNITY FOR THIRD PARTY ACTIONS

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE TO INDEMNIFY, DEFEND, RELEASE AND HOLD NEST AND ITS LICENSORS AND SUPPLIERS (COLLECTIVELY, THE “NEST PARTIES”) HARMLESS FROM AND AGAINST (I) ALL CLAIMS, ACTIONS, LAWSUITS AND ANY OTHER LEGAL ACTION BROUGHT BY ANY THIRD PARTY AGAINST ANY OF THE NEST PARTIES ARISING FROM OR RELATING TO (A) YOUR USE AND EACH AUTHORISED USER’S USE OF THE PRODUCTS OR SERVICES; (B) YOUR OR YOUR AUTHORISED USERS’ VIOLATION OF THESE TERMS; (C) ANY USER SUBMISSIONS OR FEEDBACK YOU PROVIDE; OR (D) YOUR OR YOUR AUTHORISED USERS’ VIOLATION OF ANY LAW OR THE RIGHTS OF ANY THIRD-PARTY (COLLECTIVELY, “THIRD PARTY ACTIONS”); AND (II) ANY AND ALL RELATED LOSSES, DAMAGES, SETTLEMENTS AND JUDGEMENTS (INCLUDING PAYMENT OF THE NEST PARTIES’ ATTORNEYS’ FEES AND COSTS) INCURRED BY ANY OF THE NEST PARTIES, ASSESSED OR FOUND AGAINST ANY OF THE NEST PARTIES, OR MADE BY ANY OF THE NEST PARTIES,

RELATING TO OR ARISING FROM ANY SUCH THIRD PARTY ACTION (“THIRD PARTY RELATED LOSSES”). YOU UNDERSTAND AND AGREE THAT YOUR INDEMNIFICATION OBLIGATION TO THE NEST PARTIES APPLIES EVEN IF SUCH THIRD-PARTY ACTION AND THIRD PARTY RELATED LOSSES ARISE FROM THE NEGLIGENCE OF ANY KIND OR DEGREE, BREACH OF CONTRACT OR WARRANTY, STRICT LIABILITY, NON-COMPLIANCE WITH APPLICABLE LAW, OR OTHER FAULT OR WRONGDOING OF ANY OF THE NEST PARTIES. HOWEVER, NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO REQUIRE ANY INDEMNIFICATION WHICH WOULD RENDER OR MAKE THIS CLAUSE, IN WHOLE OR IN PART, VOID AND/OR UNENFORCEABLE UNDER APPLICABLE LAW. FURTHER, YOUR INDEMNIFICATION OBLIGATION SHALL NOT APPLY TO ANY WILFUL, WANTON, INTENTIONAL OR RECKLESS MISCONDUCT OF THE NEST PARTIES, OR GROSS NEGLIGENCE OF THE NEST PARTIES IN THOSE STATES THAT DO NOT PERMIT INDEMNIFICATION FOR GROSS NEGLIGENCE. “THIRD PARTY” IS DEFINED HEREIN TO INCLUDE, AMONG OTHERS, AN AUTHORISED USER, AN UNAUTHORISED USER, A SPOUSE, PARTNER, FAMILY MEMBER, GUEST, NEIGHBOUR, TENANT, EMPLOYEE OR INSURANCE COMPANY. Nest reserves the right, at your expense, to assume the exclusive defence and control of any matter for which you are required to indemnify Nest, and you agree to cooperate with our defence of such claims. You agree not to settle any such claim without Nest’s prior written consent. Nest will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

8. Warranty Disclaimers

(a) THE WARRANTIES FOR THE PRODUCT AND PRODUCT SOFTWARE ARE SET FORTH IN THE LIMITED WARRANTY AND THE END USER LICENSE AGREEMENT, RESPECTIVELY.

(b) THE SERVICES ARE PROVIDED FOR YOUR CONVENIENCE, “AS IS” AND “AS AVAILABLE”, AND NEST, AND OUR LICENSORS AND SUPPLIERS, EXPRESSLY DISCLAIM ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY AND NON-INFRINGEMENT.

(c) NEST, AND OUR LICENSORS AND SUPPLIERS, MAKE NO WARRANTY THAT DEFECTS WILL BE CORRECTED OR THAT THE SERVICES: (I) WILL MEET YOUR REQUIREMENTS; (II) WILL BE COMPATIBLE WITH YOUR HOME NETWORK, COMPUTER OR MOBILE DEVICE; (III) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE BASIS; OR (IV) WILL BE ACCURATE OR RELIABLE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM NEST OR THROUGH THE SERVICES, SHALL CREATE ANY WARRANTY.

(d) NEST DOES NOT WARRANT, ENDORSE, GUARANTEE OR ASSUME RESPONSIBILITY FOR ANY SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH, OR IN CONNECTION WITH, THE PRODUCTS OR SERVICES (INCLUDING, BUT NOT LIMITED TO, THIRD-PARTY PRODUCTS AND SERVICES CONNECTED THROUGH THE WORKS WITH NEST PLATFORM), OR ANY HYPERLINKED WEBSITE OR SERVICE, AND NEST WILL NOT BE A PARTY TO, OR IN ANY WAY MONITOR, ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF SUCH PRODUCTS OR SERVICES.

(e) NEST MAKES NO REPRESENTATIONS CONCERNING ANY CONTENT CONTAINED IN OR ACCESSED THROUGH THE SERVICES, AND NEST WILL NOT BE RESPONSIBLE OR LIABLE FOR THE ACCURACY, COPYRIGHT COMPLIANCE, LEGALITY OR DECENCY OF MATERIAL CONTAINED IN OR ACCESSED THROUGH THE SERVICES. NEST MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING SUGGESTIONS OR RECOMMENDATIONS OF SERVICES OR PRODUCTS OFFERED OR PURCHASED THROUGH THE SERVICES.

(f) THE SERVICES MAY PROVIDE YOU INFORMATION REGARDING YOUR PRODUCTS (“PRODUCT INFORMATION”) OR OTHER PERIPHERALS CONNECTED TO YOUR PRODUCTS (“PRODUCT PERIPHERALS”). THE TYPE OF PRODUCT PERIPHERALS THAT MAY BE CONNECTED TO YOUR PRODUCT MAY CHANGE FROM TIME TO TIME. WITHOUT LIMITING THE GENERALITY OF THE DISCLAIMERS ABOVE, ALL PRODUCT INFORMATION IS PROVIDED FOR YOUR CONVENIENCE, “AS IS” AND “AS AVAILABLE”. NEST DOES NOT REPRESENT, WARRANT, OR GUARANTEE THAT PRODUCT INFORMATION WILL BE AVAILABLE, ACCURATE, OR RELIABLE.

9. Other Disclaimers

(a) WHEN YOU INSTALL, SETUP OR USE THE PRODUCTS AND SERVICES YOU ARE GIVEN THE OPPORTUNITY TO CHANGE DEFAULTS OR CHOOSE PARTICULAR SETTINGS. THE CHOICES YOU MAKE CAN CAUSE NON-RECOMMENDED OR UNINTENDED OPERATION OR NON-OPERATION OF YOUR PRODUCTS AND SERVICES AND ANY CONNECTED EQUIPMENT OR SYSTEMS. YOU ASSUME ALL LIABILITY FOR ANY DAMAGES AND LOSSES CAUSED BY, OR RELATED TO, THE CHOICES YOU MAKE FOR THE PARTICULAR SETTINGS FOR THE PRODUCTS AND SERVICES, AND SETTING OR CHANGING DEFAULTS. (b) YOU UNDERSTAND AND AGREE THAT SOME OF THE PRODUCTS AND SERVICES ARE NOTIFICATION, SIGNALLING AND DETECTION PRODUCTS AND SERVICES. THOSE PRODUCTS AND SERVICES DO NOT ELIMINATE OCCURRENCES OF EVENTS, SUCH AS FIRES, FLOODS, BURGLARIES, ROBBERIES, AND MEDICAL ISSUES. FURTHER, YOU UNDERSTAND AND AGREE THAT THOSE PRODUCTS AND SERVICES MAY NOT AVERT OR MINIMISE SUCH OCCURRENCES OF EVENTS, OR THEIR CONSEQUENCES, AND, THEREFORE, NEST MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE) THAT THOSE PRODUCTS AND SERVICES WILL SO AVERT OR MINIMISE SUCH OCCURRENCES OF EVENTS, OR THEIR CONSEQUENCES.

(c) You understand and agree that the Products are not designed and manufactured to comply with any CP-01 ANSI Standard or other similar false alarm reduction standard or ordinance that may be required or recommended by your state or local government.

10. Waiver of Subrogation

You should protect against any risk of loss with the appropriate insurance coverage, and you are responsible for obtaining all insurance coverage you believe is necessary. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW AND THE APPLICABLE POLICY OR POLICIES OF INSURANCE YOU OBTAIN AND MAINTAIN, YOU RELEASE NEST AND ITS LICENSORS AND SUPPLIERS FROM ALL LIABILITY FOR ANY LOSS, OCCURRENCE, EVENT OR CONDITION COVERED BY YOUR INSURANCE.

11. Limitation of Liability

Nothing in these Terms and, in particular, within this “Limitation of Liability” clause, shall be interpreted or construed to limit or exclude liability that cannot be so limited or excluded under applicable law.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN ADDITION TO THE WARRANTY AND OTHER DISCLAIMERS IN THESE TERMS, IN NO EVENT WILL (A) NEST BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR LOST DATA OR LOST PROFITS ARISING FROM OR RELATING TO THE SERVICES OR THE PRODUCTS, EVEN IF NEST

KNEW, OR SHOULD HAVE KNOWN, OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) NEST'S TOTAL CUMULATIVE LIABILITY FOR ANY DIRECT DAMAGES, PROPERTY DAMAGE, PERSONAL INJURY, LOSS OF LIFE OR ANY OTHER DAMAGES NOT EXCLUDED OR PRECLUDED PURSUANT TO (A) ABOVE, ARISING FROM OR RELATED TO THE SERVICES OR THE PRODUCTS, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL BE LIMITED TO AN AMOUNT NEVER TO EXCEED TWO (2) TIMES THE FEES ACTUALLY PAID BY YOU TO NEST OR NEST'S AUTHORIZED RESELLER FOR THE SERVICES OR THE PRODUCT AT ISSUE IN THE PRIOR 12 MONTHS (IF ANY). NEST DISCLAIMS ALL LIABILITY OF ANY KIND OF NEST'S LICENSORS AND SUPPLIERS. UNDER NO CIRCUMSTANCES WILL NEST BE LIABLE IN ANY WAY FOR ANY CONTENT, INCLUDING, BUT NOT LIMITED TO, ANY ERRORS OR OMISSIONS IN ANY CONTENT OR ANY LOSS OR DAMAGE OF ANY KIND INCURRED IN CONNECTION WITH USE OF, OR EXPOSURE TO, ANY CONTENT POSTED, EMAILED, ACCESSED, TRANSMITTED OR OTHERWISE MADE AVAILABLE VIA THE SERVICES.

YOU UNDERSTAND AND AGREE THAT THIS LIMITATION OF LIABILITY IN THIS SECTION 11 SHALL APPLY EVEN IF NEST IS FOUND LIABLE FOR ANY LOSS OR DAMAGE DUE TO BREACH OF CONTRACT, BREACH OF EXPRESS OR IMPLIED OR LIMITED WARRANTY, NEGLIGENCE OF ANY KIND OR DEGREE, STRICT PRODUCT LIABILITY, SUBROGATION, INDEMNIFICATION OR CONTRIBUTION, OR ANY OTHER THEORY OF LIABILITY. HOWEVER, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO ANY WILFUL, WANTON, INTENTIONAL OR RECKLESS MISCONDUCT OF NEST OR GROSS NEGLIGENCE OF NEST IN THOSE STATES THAT DO NOT PERMIT LIMITATION OF LIABILITY FOR GROSS NEGLIGENCE.

12. Fees and Payment

Certain Services may be provided for a fee. You shall pay all applicable fees in connection with the Services selected by you in accordance with the Terms of Sale.

13. DISPUTE RESOLUTION AND ARBITRATION/CLASS ACTION WAIVER/JURY TRIAL WAIVER

PLEASE READ THIS SECTION CAREFULLY. FOLLOW THE INSTRUCTIONS BELOW IF YOU WISH TO OPT OUT OF THE REQUIREMENT OF ARBITRATION ON AN INDIVIDUAL BASIS.

(a) Arbitration. Nest and you agree to arbitrate all disputes and claims that arise from or relate to these Terms or the Services or Products in any way, except for claims arising from bodily injury. THIS ARBITRATION IS MANDATORY AND NOT PERMISSIVE. This agreement to arbitrate is intended to be broadly interpreted, including, for example:

- claims arising out of or relating to any aspect of the relationship between us that is created by or involves these Terms or the Services or Products, regardless of the legal theory;
- claims for mental or emotional distress or other emotional/mental injury arising from the relationship between us;
- claims that arose before you accepted these Terms (such as claims related to disclosures or the marketing of the Services or Products, or the process for seeking approval to use the Services or Products);
- claims that may arise after the termination of your use of the Services or Products or any agreement between us; and

- claims brought by or against our respective subsidiaries, parent companies, members and affiliates, as well as the respective officers, directors, employees, agents, predecessors, successors and assigns of these entities, you, and Nest.

This arbitration agreement does not preclude either of us from bringing an individualised action in small claims court. It also does not preclude either of us from seeking an individualised preliminary injunction or temporary restraining order, pending arbitration, in any court that has jurisdiction. Nor does this arbitration agreement bar you from bringing issues to the attention of federal, state or local agencies. Such agencies can, if the law allows, seek relief against us on your behalf. In addition, you or Nest may seek injunctive or other equitable relief to protect your or its trade secrets and intellectual property rights or to prevent loss or damage to its services in any court with competent jurisdiction.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU UNDERSTAND AND AGREE THAT WE ARE EACH (A) WAIVING THE RIGHT TO A TRIAL BY JURY; (B) WAIVING THE RIGHT TO PARTICIPATE IN A CLASS OR REPRESENTATIVE ACTION. These Terms evidence a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this arbitration provision.

(b) Notice of Disputes. If either of us intends to seek arbitration of a dispute, that party must provide the other with notice in writing. The notice to Nest should be sent to: Nest Legal Department c/o Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833, USA. Nest will send notice to you at the email and/or mailing addresses associated with your account. Your notice to Nest must (a) provide your name, mailing address, and email address; (b) describe the dispute; and (c) state the relief you are requesting. If we are unable to reach an agreement to resolve the dispute within 60 days after the notice is received, you or we may commence arbitration.

(c) Arbitration Procedures. The arbitration will be governed by the Consumer Arbitration Rules (“AAA Rules”) of the American Arbitration Association (“AAA”), as modified by these Terms, and will be administered by the AAA. The AAA Rules are available online at www.adr.org or by calling the AAA at 1-800-778-7879. If the AAA is unavailable, the parties shall agree to another arbitration provider or the court shall appoint a substitute. Unless you and we agree otherwise, any arbitration hearings will take place in the county (or parish) where you are receiving Nest Services. If the value of your claim is USD \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, by telephone, or by an in-person hearing. If the value of your claim exceeds USD \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of this arbitration provision or the arbitrability of disputes are for the court to decide. The arbitrator may consider, but is not bound by, rulings in other arbitrations between Nest and Nest users. The arbitrator can award the same individualised damages and relief that a court can award. Judgement on the award may be entered by any court having jurisdiction.

(d) Costs of Arbitration. The AAA’s fee schedule is subject to change and may be found in the AAA Rules (available online at www.adr.org). Nest will pay all AAA filing, administrative and arbitrator fees for any arbitration that Nest commences. If you provided Nest with 60 days’ notice of your intent to arbitrate before commencing arbitration and the value of your claim is USD \$75,000 or less, Nest will pay your share of any such AAA fees. If the value of your claim exceeds USD \$75,000, the allocation of AAA fees will be governed by the AAA Rules (unless the law of your state requires Nest to pay all such fees). If, however, the arbitrator finds that either the substance of your claim or the relief sought is frivolous or brought for an improper purpose (as measured by the standards in Federal Rule of Civil Procedure 11(b)), then the payment of all AAA fees shall be governed by the AAA Rules. In such cases, the arbitrator may direct you to reimburse Nest for amounts that Nest paid on your behalf.

(e) No Class Arbitration. The arbitrator may award declaratory or injunctive relief only in favour of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AND NEST AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED GROUP LITIGATION OR PRIVATE ATTORNEY GENERAL PROCEEDING. Further, unless all affected parties agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or group proceeding. If a court decides that applicable law precludes enforcement of any of this subsection's limitations as to a particular claim for relief, then that claim (and only that claim) must be severed from the arbitration and may be brought in court.

(f) 30-Day Opt-Out Period. If you do not wish to be bound by the arbitration and class-action waiver provisions in this Section 13, you must notify Nest in writing within 30 days of the date that you first accept these Terms (unless a longer period is required by applicable law). Your written notification must be mailed to Nest at the following address: Nest Legal Department c/o Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833, USA. Subject to Section 13(g) below, if you do not notify Nest in accordance with this Section 13(f), you agree to be bound by the arbitration and group litigation waiver provisions of these Terms, including such provisions in any Terms revised after the date of your first acceptance.

Such notification must include: (a) your name, (b) your Nest account email address, (c) your mailing address and (d) a statement that you do not wish to resolve disputes with Nest through arbitration. This notification affects these Terms only; if you previously entered into other arbitration agreements with Nest or enter into other such agreements in the future, your notification that you are opting out of the arbitration provision in these Terms shall not affect the other arbitration agreements between you and Nest.

(g) Future Changes to Arbitration Provision. If Nest makes any changes to the Dispute Resolution and Arbitration Section of these Terms (other than a change to the address at which Nest will receive notices of dispute, opt-out notices or rejections of future changes to the Dispute Resolution and Arbitration Section), you may reject any such change by sending us written notice within 30 days of the change to Nest Legal Department c/o Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833, USA. It is not necessary to send us a rejection of a future change to the Dispute Resolution and Arbitration Section of these Terms if you had properly opted out of the arbitration and group litigation waiver provisions in this Section 13 within the first 30 days after you first accepted these Terms. If you have not properly opted out of the arbitration and group litigation waiver provisions in this Section 13, by rejecting a future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this arbitration provision, as modified by any changes you did not reject.

14. Digital Millennium Copyright Act

(a) If you are a copyright owner or an agent thereof and believe that any Content infringes your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing our Copyright Agent with the following information in writing (see 17 U.S.C §512[c][3] for further details): (i) A physical or electronic signature of a person authorised to act on behalf of the owner of an exclusive right that is allegedly infringed; (ii) Identification of the copyrighted work claimed to have been infringed or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site; (iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed, or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material; (iv) Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number and, if available, an electronic mail; (v) A statement that you have a good-faith belief that use of the material in the manner complained of is not authorised by the copyright owner, its agent or the law; and (vi) A statement that the information in the notification is accurate and, under penalty of perjury, that you are authorised to act on behalf of the owner of an exclusive right that is allegedly infringed.

(b) Nest's designated Copyright Agent to receive notifications of claimed infringement is Copyright Agent – Attention Nest Legal, 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833, USA; copyright@nestlabs.com; (650) 397-4333. For clarity, only DMCA notices should go to the Copyright Agent; any other feedback, comments, requests for technical support and other communications should be directed to Nest customer service through <https://nest.com/support/>. You acknowledge that if you fail to comply with all the requirements of this Section 14(b), your DMCA notice may not be valid.

(c) Counter-Notice. If you believe that the Content that was removed (or to which access was disabled) is not infringing, or that you have the authorisation from the copyright owner, the copyright owner's agent or pursuant to the law to post and use the material in your Content, you may send a counter-notice containing the following information to the Copyright Agent: (i) Your physical or electronic signature; (ii) Identification of the Content that has been removed, or to which access has been disabled, and the location at which the Content appeared before it was removed or disabled; (iii) A statement that you have a good-faith belief that the Content was removed or disabled as a result of mistake or misidentification of the Content; and (iv) Your name, address, telephone number and email address, a statement that you consent to the jurisdiction of the federal court in San Francisco, California, USA and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

(d) If a counter-notice is received by the Copyright Agent, Nest may send a copy of the counter-notice to the original complainant informing that person that they may replace the removed Content or cease disabling it in 10 working days. Unless the copyright owner files an action seeking a court order against the Content provider, member or user, the removed Content may be replaced, or access to it restored, in 10 to 14 working days or more after receipt of the counter-notice, at Nest's sole discretion.

15. General

(a) Changes to These Terms. Nest reserves the right to make changes to these Terms. Nest will post notice of changes to any one or more of the following: this page, a Site, Web Apps, or Mobile Apps. You should ensure that you have read and agree with the most recent Terms when you use the Services and Products. Continued use of the Services and Products following notice of such changes shall indicate your acknowledgment of such changes and agreement to be bound by the revised Terms. IF YOU DO NOT AGREE WITH ANY OF THE CHANGES TO ANY OF THE TERMS, YOU SHOULD DISCONNECT YOUR PRODUCTS FROM YOUR ACCOUNT AND CEASE ACCESSING OR USING THE SERVICES AND PRODUCTS.

(b) Governing Law. These Terms, and any claim, dispute, action, cause of action, issue, or request for relief arising out of or relating to these Terms or your use of the Products and Services shall be governed by the laws of the State of California without giving effect to any conflict of laws principles that may provide the application of the law of another jurisdiction. The courts in some states and countries may not apply California law to some types of dispute. If you reside in one of those states or countries, then where California law is excluded from applying, your state's or country's laws will apply. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE TO SUBMIT TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS IN OR FOR SANTA CLARA COUNTY, CALIFORNIA FOR THE PURPOSE OF LITIGATING ALL SUCH CLAIMS OR DISPUTES, UNLESS SUCH CLAIM OR DISPUTE IS REQUIRED TO BE ARBITRATED AS SET FORTH IN AN ABOVE SECTION.

(c) Protection of Confidentiality and Intellectual Property Rights. Notwithstanding the foregoing, Nest may seek injunctive or other equitable relief to protect its confidential information and intellectual property rights or to prevent loss of data or damage to its servers in any court of competent jurisdiction.

(d) Entire Agreement/Severability. These Terms constitute the entire agreement between you and Nest regarding the use of the Services and purchase of the Products. Any failure by Nest to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. If any provision of these Terms is, for

any reason, held to be invalid or unenforceable, the other provisions of these Terms will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Neither party is an agent or partner of the other party.

(e) **Survivability.** The obligations in Sections 3(d) and (e), 4, 6, 7, 8, 9, 10, 11, 13 and 15 will survive any expiration or termination of these Terms.

(f) **Assignment.** These Terms, and any associated rights or obligations, may not be assigned or otherwise transferred by you without Nest's prior written consent. These Terms may be assigned by Nest without restriction. These Terms are binding upon any permitted assignee.

(g) **Notifications.** Nest may provide notifications to you as required by law, or for marketing or other purposes, via (at its option) email to the primary email associated with your Account, mobile notifications, hard copy or posting of such notice on www.nest.com. Nest is not responsible for any automatic filtering that you or your network provider may apply to email notifications. Nest recommends adding @nestlabs.com email addresses to your email address book to help ensure that you receive email notifications from Nest.

(h) **Disclosures.** Please see [here](#) for Nest's address. If you are a resident of California, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them, in writing, at 400 R Street, Sacramento, CA 95814, USA, or by telephone on (800) 952-5210.

(i) **Copyright/Trademark Information.** Copyright © 2011-2016, Nest Labs, Inc. All rights reserved. All trademarks, logos and service marks ("Marks") displayed on the Services are the property of Nest or of their respective holders. You are not permitted to use any of the Marks without the applicable prior written consent of Nest or such respective holders. Nest reserves the right to alter product and services offerings, specifications and pricing at any time, without notice, and is not responsible for typographical or graphical errors that may appear in this or in related documents.

Google and Google Home are trademarks of Google LLC.



| [CHANGE >](#)

© 2022 Nest Labs
[Legal](#) | [Privacy](#)