# THE STRUCTURAL WARRANTY
## FOR NEW AND EXISTING HOMES

# WELCOME TO YOUR

# NXT

# STRUCTURAL WARRANTY CONTRACT

*BROUGHT TO YOU BY RESIDENTIAL WARRANTY SERVICES & YOUR HOME INSPECTION COMPANY*

**12 MONTH POLICY STARTING FROM INSPECTION DATE**

**Certain items and events are not covered by this contract.**
**Please refer to the exclusions listed on pages 4-7 of this document.**

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# Welcome

The NXT Structural Service Contract is exclusively offered FREE OF CHARGE by Residential Warranty Services ("RWS") on homes inspected by a qualifying Certified Inspection Expert ("CIE"). The Contract covers only those items that were noted in the CIE Inspection Report as being free of defects or which had any listed defects repaired by a licensed contractor, so long as documentation of the same is provided to RWS with your claim submission, and so long as the repairs were properly completed and fully repaired. The contract holder is responsible for regular maintenance of the property, including not planting trees or shrubs close enough to the home's foundation to cause damage, establishing and maintaining negative grading away from the home, and must follow the claims procedure listed below in order to be eligible for coverage. This contract covers only those items and/or occurrences expressly specified herein and excludes all others – while some commonly excluded items are included for transparency purposes, these lists are not inclusive and only those items specified as covered herein are within the scope of the Contract. Please read this entire contract for coverage terms as this contract is one of adhesion; payment indicates your acceptance of coverage and of its terms, conditions, and limitations.

# Terms and Definitions

Here are some important terms to know, and the definitions you see here are how they are used throughout the contract;

## Terms

### Aggregate Limit of Liability

Unless otherwise specified, the maximum aggregates are as follows:

- NXT 3 - **$5,000** per claim and **$100,000** for the duration of the 12 (twelve) month policy.

The maximum aggregate per claim is the maximum amount the contract holder is eligible to receive for any single, covered claim, noting that the contract holder is not entitled to the maximum aggregate limit for any single claim, even if the claim submitted is for an amount higher than the aggregate maximum. The maximum aggregate for the duration of the contract consists of all claims made in a single contract term. Any payment will be deducted from the aggregate maximum limits of coverage for the duration of the Contract's term.

### Certified Inspection Expert

A certification available to all home inspectors, requiring they met certain qualifications and were granted the official certification of 'Certified Inspection Expert' or 'CIE'. If your home inspector does NOT have this certification, you will NOT have coverage under the Contract. Please call 1-800-544-8156 for a list of eligible home inspectors or information to see if you qualify.

### Claim

Any time a current, covered single structural component failure is reported to RWS by the contract holder. Each and every distinct covered failure of any part or component as determined by an authorized contractor, constitutes a distinct claim for which the contract holder will be responsible for a deductible or the actual cost, whichever is lower.

### Contract Holder

The person(s) to whom the benefit of this contract from RWS is owed.

### Contract

Used to describe your limited structural component warranty for new and pre-existing homes and should not be given any additional meaning or interpretation beyond that given here. This is a home protection contract, not a contract of insurance.

### Deductible

A deductible is incurred by the contract holder each time a claim is made and applies to each structural component failure repaired under the contract terms. At times, multiple structural component failures may be discovered within a single claim and a deductible would apply for each repair or the actual cost to repair, whichever is less. RWS is responsible for the cost of approved repairs beyond the deductible, subject to the limitations of liability. Please see the Notice Form to confirm your specific deductible, as unless otherwise specified, the deductible is $2,000. Deductibles are payable to the contractor at time of service.

### Immediate Repairs

If it is outside of normal business hours and a reasonable person would determine that there is a substantial and immediate risk of bodily injury or property damage if the structural component failure is left alone, it is the contract holder's responsibility to mitigate the damages by implementing temporary fixes to allow licensed contractors to repair issues on a regular time frame. The Contract will apply up to **$500** worth of temporary repairs towards the applicable deductible on any claim where substantial and immediate risk existed so long as all receipts for the temporary work are delivered with your claims procedure documents.

### Non-Claim

Any time an incident outside of coverage is reported to RWS by the contract holder. In the event of a "non-claim," whereby a contractor is requested and the structural component failure is not covered by the Contract, the trip charge from the contractor will be payable by the contract holder. RWS claims representatives are well-trained and will do everything within their power to ensure the right contractor is dispatched the first time. However, the ultimate determination of whether to request service and by what type of contractor is up to the contract holder. Should the trade of the contractor requested not be the trade necessary to fix a covered issue, it will be treated as a "non-claim."

### RWS

Acronym used to describe Residential Warranty Services your contract provider.

**COVERAGE. UNMATCHED.**

# Coverage

**Coverage Details.**
The coverage in this Contract applies only to items falling within the perimeter of the foundation of the home and attached garages. This Contract only applies to homes on permanent foundations and covers structural component malfunctions and failures as follows: footings and foundation systems, beams, girders, lintels, masonry arches, columns, load-bearing walls, partitions, roof framing systems, and floor systems, subject to the following limitations and exclusions: the Contract does not cover any item within, attached to, or affected by any modifications to the property made by the contract holder after the date of inspection by the Certified Inspection Expert and it covers only those items and elements required to ensure the home's structural stability.

Any repair of a covered failure is limited to the repair of the damage to load-bearing structural components solely to restore any load-bearing function as existed prior to the malfunction. Where a non-load bearing structural component was damaged and repair is necessary to restore safety, sanitation, or livability – these repairs would also be covered. Any repairs involving cosmetic correction consequential to the malfunction or otherwise, are not covered under the Contract.

**Examples of Covered Occurrences.**
The following is a sample list of covered occurrences in a home's structural systems under this contract. Included in each sample is the covered repair procedure: footings and foundation systems, beams, girders, lintels, masonry arches, columns, load-bearing walls, partitions, roof framing systems, and floor systems.

**Examples of Non-Covered Occurrences.**
**Examples of items that are not covered include, but are not limited to: flooring and sub-flooring materials, stucco, stone veneers, siding of any kind, drywall, plaster, wall tile, floor tile, wall paper/coverings, shower enclosures, roof shingles, roof coverings, roof tiles, sheathing, tar paper, mechanical systems, heating and/or cooling systems, ventilation, plumbing, electrical systems, appliances, plumbing fixtures, electrical fixtures, doors, cabinets, trim, hardware, insulation, paint, stains (cosmetic or otherwise), mold, and/or basement or other interior floating, ground-supported concrete slabs.**

**Exclusions.**
The Contract does not provide coverage for any of the following, specifically excluded, items:

1. Insurance claims or any issues caused by a peril, defined as any cause for damage other than normal wear and tear.

2. Damage or defects outside the perimeter of the home or in swimming pools, tennis courts, driveways, retaining walls, landscaping, sprinkler systems, patios, decks, stoops, steps, porches, outbuildings, detached carports, or any other appurtenance.

3. Loss or damage when/if the property was utilized for non-residential purpose.;

4. Changes in the level of the underground water table.

5. Failure of any repairs or further evaluation from an inspection report to be followed through on (including any consequential damages therefrom).

6. Any cause including physical damage from an outside source (whether covered by insurance or not) as only normal wear and tear is covered.

7. Any damage that is caused (or made worse by) the following: negligence, improper maintenance, failure to comply with notices of any kind, failure by the contract holder to report a structural component failure promptly, change of the grading or lack of draining maintenance that results in foundation water issues, riot, civil commotion, war, vandalism, hurricane, tornado, explosion, blasting, smoke, water, fire, tidal wave, flood, hail, snow, ice storm, lightning strike or surge, falling trees or other objects, aircraft, vehicles, mudslide, landslide, avalanche, earthquake, volcanic eruption, sinkhole, or geographical phenomena, abuse of any part of the home beyond the capacity of such part, microorganisms, fungus, decay, wet rot, dry rot, soft rot, rotting of any kind, mold mildew, vermin, termites, insects, rodents, birds, wild or domestic animals, plants, corrosion, rust, radon, radiation, formaldehyde, asbestos or any other environmental issue, pollutants, contaminants/toxins, irritants, carcinogens, electromagnetic field, any other claimed health risk of uninhabitability, failure to minimize or mitigate any failure or condition as soon as practical.

8. Any loss or damage caused by anything underground.

9. Any damage known before the contract start date.

10. Any loss covered by a third party outside the Contract (all alternative coverage must be exhausted before this contract).

11. Consequential costs to repairs (including hotels and transportation).

12. Diminishment in market value of property.

13. Personal property, pain and suffering, emotional distress.

14. Any defect or malfunction reported after the Contract's expiration date.

15. Any structural component failure or settlement where the indicated deflection is under 1" from condition at time of inspection.

16. For new home construction, where the builder is required to cover construction defects, RWS does not provide coverage for structural component defects covered by another source. Defects not covered by another source are eligible to be covered by the Contract, subject to the terms and conditions contained herein.

# Claim Procedure

**Making a Claim.**
All claim types can be made by calling 1-800-544-8156 and must be made between the date of contract commencement at noon and the date of expiration at midnight. The contract holder is entitled to service beyond the date of the Contract's expiration so long as the claim has been filed within the warranty period.

A claims processor will field your call and ask you to provide contact numbers, an email address, and a description of the problem. If the claim appears to not be covered under the warranty contract, we will do our best to inform you so that you do not have to pay a deductible for a non-claim. If the claim appears to fall under the warranty coverage provided, then the claims processor will forward your claim to a contractor, who will then call you to schedule an appointment time. RWS will make every reasonable effort to get a contractor dispatched within 24 business hours of contacting RWS.

## Do Not Call a Contractor Before You Call RWS.

RWS will not be liable for any costs associated with a contractor selected by the contract holder without prior authorization. Contract holder's contractors contacted prior to making a claim with RWS and without prior authorization will not be eligible for service, or reimbursement, hereunder. RWS does not cover components damaged by outside contractors. Before you have work done, call RWS to find out if it is covered

**Contractor Availability.**
RWS is not a contractor. However, all third party contractors in RWS's network are screened for mandatory qualifications, insurance, and references. RWS does not guarantee the work of our network contractors, nor do we insure them for liabilities they may incur in the course of offering service. Should a contract holder or their property sustain any sort of damage resultant from the work of a contractor, the contractor should be notified immediately. RWS will make every reasonable effort to get a contractor dispatched within 24 business hours. During certain exceptional high volume claim periods, these times may be exceeded. RWS is not responsible for damage caused by delays in service.

**Deductible.**
The contract holder must pay their applicable deductible to the service contractor at the time of repair noting that more than one deductible may ultimately apply to a single claim.

**Return Service Calls.**
RWS has a single deductible per structural component failure contract. If the contractor does not adequately rectify the issue reported by the contract holder on the first visit, and a similar problem persists shortly after a service call, please call RWS to inform them of the unsatisfactory repair. If the problem is related to inadequate repair, the contractor will come back out to commence further repairs at no additional cost to the contract holder when that contractor is in the RWS network. The circumstances under which the component failed must be covered by the contract and RWS reserves the right to send the same contractor to the home if the problem persists during the same contract term. Furthermore, it is our policy that our contractors leave a copy of the invoice for work performed at the warranted property for any repair. Each contractor has their own contract on how long they guarantee their workmanship and parts, which may extend beyond the term of your contract with RWS. Call the contractor for further details or inquire about their guarantees at the time service is performed.

**Overtime fees.**
If you choose to have a claim addressed outside of normal business hours, additional fees may apply as assessed by the contractor and will be the responsibility of the contract holder. Any claim, regardless of classification, may be handled after normal business hours based on the availability of RWS authorized contractors. RWS shall only be liable for the standard costs of repairing the failure; the contract holder would be responsible for any overtime charges imposed by the contractor.

**Right of the Contract Holder.**
The contractor selected by RWS does not have to be the contractor to perform the repair. After diagnosis and before any repair actions have commenced, the contract holder may request cash in lieu of repair for that claim. RWS is not responsible for the work of contractors outside of our network under our "single deductible" contract (see next section). The Contract covers only items as described and excludes all others. All repairs will be made/offered in a manner determined by RWS. RWS shall have the sole option of determining in what manner the structural component failure will be corrected. Contract holder has the option of taking a cash payment in lieu of repair on any claim, a decision that must be made after diagnosis and approval of the claim by RWS and before any repairs have commenced and/or costs incurred on their behalf.

**Second Opinions.**
RWS reserves the right to a second opinion after the diagnosis of a covered issue by an approved RWS contractor, at the cost of RWS and at no further cost to the contract holder. In the case of a contract holder opting to utilize their own contractor, RWS reserves the right to a second opinion after diagnosis and estimates, at the cost of RWS less the deductible that applies to that claim.

**Cancellation.**
RWS may cancel this contract without refund to the contract holder under any of the following circumstances: (1) In the event of fraud or misrepresentation by the contract holder or any related parties, (2) If the contract holder fails to pay any fee associated with this contract including, but not limited to; deductible and payments for the service contract itself, or (3) If the home is vacated or has been left vacant in the past.

# Limits of Liability

1. On any claim, at any time prior to work commencing, either RWS or the contract holder may elect to pay/receive cash in lieu of repair, keeping in mind the cash payment will be for the reasonable cost of repairing the failed part at RWS's cost, and may be less than retail. The cash payment will reflect RWS negotiated cost for service and may be less than retail.

2. Wherever an Engineer's opinion is required for a repair (i.e. Manufactured Truss Systems) the Contract will cover up to **$500** worth of Engineering Expenses.

3. RWS does not cover items where environmental issues arise such as lead, mold, or asbestos. RWS is not responsible for the presence of lead, mold, asbestos or any other environmental hazard nor the removal of the same.

4. RWS does not cover consequential or secondary damage caused by failures of covered items except where specified. RWS is not an insurer.

5. RWS does not pay for the costs of permits except where expressly specified as covered, herein.

6. RWS, at its sole discretion, may provide a repair, replacement, or buy-out payment for the reasonable cost of repair for the covered failure, noting that the design, method, and manner in which any repair is made is at the sole discretion of RWS. The buy-out will reflect RWS negotiated cost for services and may be less than retail.

7. Repairs necessary as a result of any act of nature, misuse, abuse, lack of maintenance, improper installation, wind, rain, tornado, fire, hurricane, riots, civil commotion, or any other outside influence, natural or unnatural, including a previous contractor's work, are not covered under this contract.

8. RWS will make commercially reasonable efforts to fulfill its obligations under the Contract. Certain causes and events out of RWS's control may result in RWS' inability to perform, in whole or in party. If this occurs, RWS's obligations shall be suspended to the extent necessary by such event and, in no way, shall RWS be liable to the contract holder or any party for its failure to fulfill its obligations or for damages caused. Events include, but are not limited to, acts of god, fire, war, flood, earthquake, hurricanes, tornadoes, other natural disasters, acts of terrorism, acts of any governmental agency, accidents, strikes, labor troubles, shortages in supply, changes in law, rules, or regulations of any governmental authority, and any other cause beyond RWS's reasonable control.

9. RWS is not the servicing contractor; all RWS network contractors are independent, third parties to RWS, though all are screened for mandatory qualifications, insurance, and references. As a risk management company, RWS cannot guarantee the work of RWS contractors, or take responsibility for liabilities they may incur through the course of work. Any statement made by a contractor, whether or not they are an RWS network contractor, is their personal opinion and not binding on RWS, including any statements regarding coverage or extent of coverage under the contract.

10. If a repair is not available without additional improvements to the property, the cost of those improvements (whether cosmetic or simply additional costs associated with bringing an older property up to code or repairing the covered failure) are the sole expense of the contract holder.

11. RWS is only responsible for standard repair costs of the covered failure, even if the best option for the contract holder is more extensive. Should the contract holder wish to authorize a more extensive repair, they may choose to receive a cash payment in lieu of repair. In such cases, the cash payment shall be made in accordance with RWS's negotiated service and repair rates and may be less than retail.

12. Coverage may be voided if the correct square footage, including finished and non-finished spaces, was not reported to RWS and was not appropriately ordered.

13. This contract is a home protection contract; a service contract and not a reimbursement contract. You must call for service at 1-800-544-8156.

14. Only pre-existing conditions that were not known to any party involved in the transaction are covered. As a part of the verification process, the contract holder will be required to provide RWS with a copy of any home inspection reports and seller's disclosure statements. No other pre-existing conditions are covered under this contract, unless specified.

15. Reimbursement rates for Contractors NOT in RWS's network: up to **$75** per hour for labor charges, up to 10% over distributor cost for material costs, shipping costs up to **$50**, where applicable, and up to **$30** for trip charges.

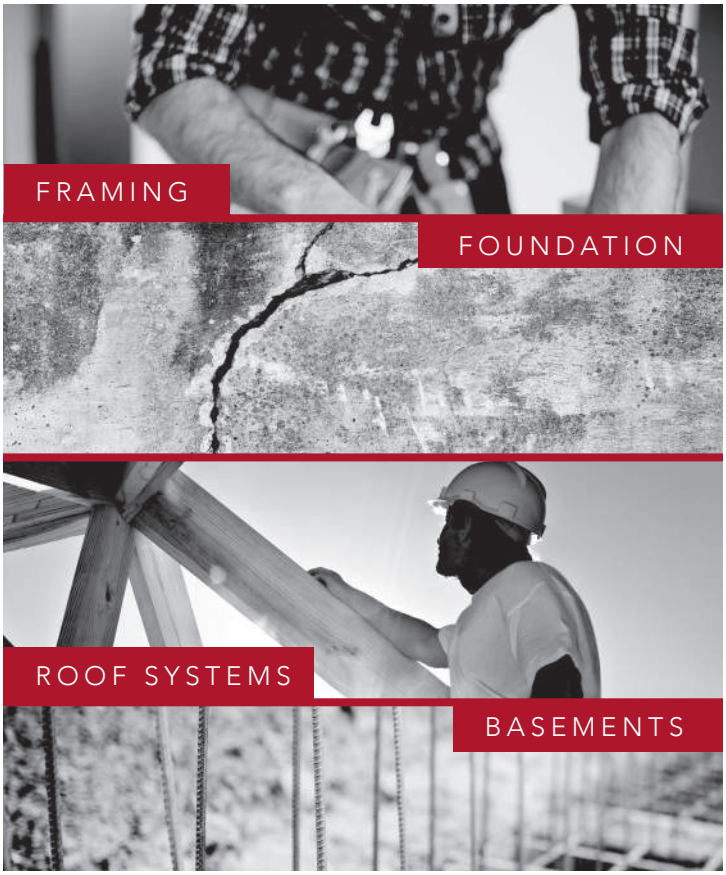
# Additional Terms and Conditions

All Claims and disputes arising from or related to this home warranty contract shall be governed, construed, and enforced in accordance with, and shall have sole jurisdiction and venue in, the state and federal courts of Hamilton County in the State of Indiana, with the contract holder expressing their consent to the same and expressly waiving personal jurisdiction for any alternate court or venue, regardless to conflict of law provisions. Contract holders may have other legal rights that vary from state to state and so are responsible for informing themselves to the laws of their jurisdictions and compliance therewith. Disputes must be made, in writing, within 30 days of the dispute arising and sent via registered mail with proof of delivery to: NXT Structural Service Contract, Attn: Legal, PO Box 318, Carmel, IN 46082.

If the above provision is found to be unenforceable in the contract holder's jurisdiction for any reason, the following clause applies: ARBITRATION AGREEMENT – PLEASE READ CAREFULLY: Any controversy of claim arising out of or relating to this contract or the breach thereof, shall be settled by final and binding arbitration filed by the aggrieved party with and administered by the American Arbitration Association (hereafter referred to as "AAA") in accordance with its Commercial Arbitration Rules in effect at the time the claim is filed. The Rules, information and forms of the AAA may be obtained and all claims shall be filed at any office of the AAA or at Corporate Headquarters, 335 Madison Avenue, Floor 10, New York, New York 10017-4605. Telephone: (212)·716-5800, Fax: (212)-716-5905, Website: www.adr.org. The arbitration of all disputes shall be decided by a neutral arbitrator, and judgment on the award rendered by the arbitrator may be entered in any court having competent jurisdiction thereof. Any such arbitration will be conducted in the city nearest to the property covered by this contract having on AAA regional office. Each party shall bear its own costs and expenses and equal share of the administrative and arbitrator's fees of arbitration. This arbitration Agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. Sections 1-16. THE PARTIES UNDERSTAND THAT THEY WOULD HAVE HAD A RIGHT OR OPPORTUNITY TO LITIGATE THROUGH A COURT AND TO HAVE A JUDGE OR JURY DECIDE THEIR CASE, BUT THEY CHOOSE TO HAVE ANY AND ALL DISPUTES DECIDED THROUGH ARBITRATION. BY AGREEING TO THIS PROVISION, THE PARTIES ARE GIVING UP ANY RIGHT THEY MIGHT HAVE TO SUE EACH OTHER.

The administrator name and name of the provider and servicer of this contract is: Residential Warranty Services, Inc. located at 690 Pro Med Lane, Carmel, IN 46032. Toll-Free 1-800-544-8156. Obligations of the obligor under this service contract are backed by the full faith and credit of the obligor.

The terms expressly listed herein constitute the entire agreement between Residential Warranty Services and the contract holder. Any claim, dispute, or controversy regarding this contract or the relationship among the parties, by or on behalf of a contract holder, will take place on an individual basis. Class actions, collective actions, and other similar representative proceedings of any kind or nature are not permitted. By entering into this contract, you agree that you may bring claims against RWS or its affiliates only in your individual capacity. Any failure by RWS to assert a right or enforce a requirement under the Contract shall not be deemed a waiver of that or any other right or requirement and shall not preclude RWS from asserting any right or enforcing any requirement at any time. If any provision of the Contract is held to be illegal, invalid, or unenforceable, for any reason, that provision shall be limited or eliminated to the minimum extent necessary so that this contract shall otherwise remain in full force and effect and enforceable.

The Contract is fully transferable so long as the property address remains the same. To transfer the Contract, you must notify RWS at the above mailing address with the name of the new contract holder, their signed consent, and the date on which the property transfers to the new contract holder. A transfer fee of $35 may apply. Successive owners may benefit from the Contract but, upon their consent of the transfer, are also consenting to their being bound by the Contract's listed terms and conditions.

This policy was delivered to the home owner free of charge by their home inspector. For copies of any RWS printed materials, please call the RWS offices at 1-800-544-8156.