



A Touchstone Energy® Cooperative

### Terms of Service Agreement

### Residential Plan Variable Price Product: (IOU service area)

### NECCo-opEnergyTX6-2-22-RES

The following Terms of Service Agreement will apply to residential customers who select NEC Co-op Energy as their Competitive Retail Electric Provider (CR) under this plan. If you would like to receive this information in Spanish, please contact us at 1-855-632-7348 (toll-free). **Si usted prefiere recibir esta información en español, llame gratis al número 1-855-632-7348.**

#### Contact Information

Name of Provider: NEC Co-op Energy – PUCT #10166X  
Mailing Address: 14353 Cooperative Ave., Robstown, TX 78380  
Physical Address: 5017 Saratoga Blvd. #135, Corpus Christi, TX 78413  
Business Hours: 8 am-5 pm, M-F CDT  
Customer Assistance: 1-855-632-7348 (toll free) or 361-767-3865 (Corpus Christi, TX)  
Provider Fax: 361-387-2919  
Website: [www.neccoopenergy.com](http://www.neccoopenergy.com)  
E-mail Address: [help@neccoopenergy.com](mailto:help@neccoopenergy.com)

#### Service Outage Reporting:

- In AEP Texas Central & AEP Texas North areas:**  
1-866-223-8508
- In Texas-New Mexico Power Company area:**  
1-888-866-7456
- In TXU Energy Delivery area:**  
1-888-313-4747
- In CenterPoint area:**  
1-800-332-7143

#### Pricing:

- The price for your electric service from NEC Co-op Energy is a variable price. The calculation of your price is explained in the Electricity Facts Label provided to you with this Terms of Service Agreement.
- Your price is also subject to change if the Public Utility Commission of Texas (PUCT), Municipal Utility, or Local Electric Cooperative changes Transmission and Distribution Service Provider (TDSP) delivery charges or other regulatory fees.
- The variable price shown on the Electricity Facts Label does not include applicable state and local taxes and other non-recurring fees. You will be charged for all applicable taxes and non-recurring fees and these charges will appear separately on your monthly bill. Non-recurring fees, which are based on the TDSP's tariff for retail delivery service approved by the PUCT, will be charged for services provided to you by the TDSP such as out of cycle meter reading fees, meter test fees, disconnection and reconnection fees, etc.

- You agree to pay the price as specified in the most current Electricity Facts Label for this plan and all associated amounts that will be shown on your monthly bill for electric service.

#### Right of Rescission:

**If you are switching your electric service to NEC Co-op Energy, you have the right to rescind your acceptance of this Terms of Service Agreement without fees or penalties of any kind, within three federal business days (includes Saturday) after receiving this Terms of Service Agreement. You may rescind either by phone at 1-855-NEC-RD4U (855-632-7348) (toll free), fax at 1-361-387-2919 or email at [help@neccoopenergy.com](mailto:help@neccoopenergy.com) . Please provide your name, address, phone number, Electric Service Identifier (ESI ID) or account number, and a statement that you are rescinding your agreement under the three-day Right of Rescission.**

#### Terms of Service Agreement Term and Renewal:

The term of this agreement with NEC Co-op Energy is on a month-to-month basis and will begin with the first meter reading provided to NEC Co-op Energy. This agreement will automatically renew each month, unless cancelled by you or NEC Co-op Energy as provided herein.

#### Cancellation of Terms of Service Agreement by Customer:

You have the right to terminate your agreement with NEC Co-op Energy without penalty for any reason including:

- You move to another location. Please provide us 30 calendar days advance written notice.
- Market conditions change.
- NEC Co-op Energy notifies you of a material change in the terms and conditions of this Terms of Service Agreement.

#### Change in Terms and Conditions:

NEC Co-op Energy will provide you with written notice 45 days in advance of any material change in this Terms of Service Agreement. Upon receiving the written notice, you have the right to terminate the Terms of Service Agreement and choose another Competitive Retail Electric Provider (CR), subject to availability. Pricing changes that are made to track changes in fuel costs are not material changes requiring advance notice because this is a variable price service as explained in your Electricity Facts Label. NEC Co-op Energy is not required to notify you of material changes that benefit you or for changes that are mandated by regulatory agencies. Notice is not required for seasonal or variable price changes because this Terms of Service Agreement, together with the Electricity Facts Label, clearly specifies the manner in which prices may be adjusted under a seasonal or variable pricing plan.

#### Discrimination:

NEC Co-op Energy will not deny service or require a payment or deposit for service based on a customer's/applicant's race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location of a customer/applicant in an economically distressed geographic area,

veteran status, or qualification for low income or energy efficiency services. NEC Co-op Energy cannot and will not use a credit score, a credit history, or utility payment data as the basis for determining the price for electric service for a product with a contract term of 12 months or less.

**Initial Deposit and Enrollment Eligibility:**

This Agreement is conditioned upon you meeting the eligibility requirements of NEC Co-op Energy in compliance with §25.478 and 25.24 of the PUCT Substantive Rules (<http://www.puc.state.tx.us/rules/subrules/electric/index.cfm> ) and Tex. Util. Code §17.008. If you, as an applicant, qualify to receive service from NEC CO-OP ENERGY (under PUCT Substantive Rule 25.477 - <http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>) and are required to pay an initial deposit, you may be able to have the initial deposit waived if you can establish and maintain satisfactory credit with NEC CO-OP ENERGY. A residential applicant can demonstrate satisfactory credit using any one of the criteria listed below:

- (A) The residential applicant:
  - (i) has been a customer of any electric utility for the same kind of service within the last two years;
  - (ii) is not delinquent in payment of any such electric utility service account;
  - (iii) during the last 12 consecutive months of service was not late in paying a bill more than once;
  - (iv) did not have service disconnected for nonpayment; and
  - (v) is encouraged to obtain a letter of credit history from the applicant's previous electric utility
- (B) A residential customer or applicant may be deemed as having established satisfactory credit if the customer or applicant possesses a satisfactory credit rating obtained through a consumer reporting agency, as defined by the Federal Trade Commission.
- (C) The residential applicant demonstrates a satisfactory credit rating by appropriate means, including, but not limited to, the production of:
  - (i) generally acceptable credit cards;
  - (ii) letters of credit reference;
  - (iii) the names of credit references which may be quickly and inexpensively contacted by the electric utility; or
  - (iv) ownership of substantial equity that is easily liquidated.
- (D) The residential applicant is 65 years of age or older and does not have an outstanding account balance incurred within the last two years with the electric utility or another electric utility for the same type of utility service.
- (E) A residential customer or applicant may be deemed as having established satisfactory credit if the customer or applicant has been determined to be a victim of family violence as defined in the Texas Family Code §71.004 (<http://www.statutes.legis.state.tx.us/>), by a family violence center as defined in Texas Human Resources Code §51.002 (<http://www.statutes.legis.state.tx.us/>), by treating medical personnel, by law enforcement personnel, by the Office of a Texas District Attorney or County Attorney, by the Office of the Attorney General, or by a grantee of the Texas Equal Access to Justice Foundation. This determination shall be evidenced by submission of a certification letter developed by the Texas Council on Family Violence.
- (F) A residential customer or applicant seeking to establish service may be deemed as having established satisfactory credit if the customer is medically indigent. In order for a customer or applicant to be considered medically indigent, the

customer or applicant must make a demonstration that the following criteria are met. Such demonstration must be made annually:

- (i) the customer's or applicant's household income must be at or below 150% of the poverty guidelines as certified by a governmental entity or government funded energy assistance program provider; and
- (ii) the customer or applicant or the spouse of the customer or applicant must have been certified by that person's physician as being unable to perform three or more activities of daily living as defined in 22 TAC §224.4 (<http://www.statutes.legis.state.tx.us/>), or the customer's or applicant's monthly out-of-pocket medical expenses must exceed 20% of the household's gross income. For the purposes of this subsection, the term "physician" shall mean any medical doctor, doctor of osteopathy, nurse practitioner, registered nurse, state-licensed social workers, state-licensed physical and occupational therapists, and an employee of an agency certified to provide home health services pursuant to 42 U.S.C. §1395 *et seq* (<http://www.statutes.legis.state.tx.us/>).

Customers/applicants unable to demonstrate satisfactory credit in accordance with §25.478 and 25.24 (<http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>) of the PUCT Substantive Rules may be required to pay a deposit. NEC Co-op Energy may deny electric service to customers/applicants that refuse or are unable to comply with the requirements in §25.478 and 25.24 of the PUCT Substantive Rules (<http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>).

A customer/applicant who previously has been a customer of Nueces Electric Cooperative, and whose service was terminated or disconnected for non-payment of their electric bill or theft of service (including fraud or misrepresentation) shall be required, before service is reinstated, to pay all amounts due to Nueces Electric Cooperative, or execute a deferred payment agreement, if eligible, along with any required deposit and fees, as appropriate, and reestablish credit.

**Deposit:**

If you are an existing NEC Co-op Energy customer and during the previous 12 months of service you have been late paying a bill more than once or had service terminated or disconnected for nonpayment, you may be required to pay an initial deposit. You may be required to pay this initial deposit within ten days after issuance of a written termination/disconnection notice requesting the deposit.

An additional deposit may be required from an existing customer if:

- The average of your actual billings for the last 12 months is at least twice the amount of the original average of the estimated annual billings; and
- A termination or disconnection notice has been issued or the account's electric service has been terminated or disconnected within the previous 12 months. The additional deposit shall be paid within ten days of the request for deposit. Service may be terminated or disconnected, whichever is applicable, if the additional deposit is not paid within this ten day period if a written termination or disconnection notice has been issued to the customer. A termination or disconnection notice may be combined with or issued concurrently with the written request for the additional deposit.

The amount required for all deposits shall not exceed an amount equivalent to the greater of either:

- One-fifth of your estimated annual billings for electric service; or
- The sum of the estimated billings for the next two months for electric service.

Estimated billings for an initial deposit from an applicant may be based upon a reasonable estimate of average usage for the customer class. Estimated annual billings for an initial or additional deposit from an existing customer shall be based upon actual historical usage, to the extent it is available.

After 12 months of service with NEC Co-op Energy, you may request that your required deposit be recalculated based upon your actual historical usage.

Customers who qualify for the Rate Reduction Program under §25.454 of the PUCT Substantive Rules (<http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>) shall be eligible to pay any deposit that exceeds \$50 in two equal installments.

#### **Interest on Deposits:**

- You will accrue interest on your deposit, if held more than 30 days, at an annual rate established by the PUCT.
- Your deposit will be refunded when you have paid your bill for electric service for 12 consecutive months without having any late payments.
- When you close your account with NEC Co-op Energy, your membership fee, your deposit and accrued interest, less any outstanding balance owed for electric service, will be refunded to you. Upon request, payment of accrued interest will be made once a year in accordance with PUCT guidelines.

#### **Billing and Payment:**

- You will be billed monthly for your electric service.
- You may be issued a bill less frequently than monthly if you and NEC Co-op Energy agree to such an arrangement.
- Your bill may be sent electronically in lieu of written mailings if you and NEC Co-op Energy agree to such an arrangement.
- You will be charged a monthly service charge ((1) \$7.50 for each residential service, (2) \$2.50 for each security light, and (3) \$34.50 for each commercial service whose demand is 35kW or greater). You will not be charged a fee to receive a standard bill via U.S. Mail that complies with the bill content requirements of §25.479 of the PUCT Substantive Rules (<http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>). You may be charged a fee or given a discount if you and NEC Co-op Energy agree to the delivery of a non-standard bill.
- Your monthly billing period is approximately 30 days.
- NEC Co-op Energy will charge a \$15 Nueces Electric Cooperative membership fee. This fee will be identified separately on your first electric bill and is refundable when you terminate all account services with Nueces Electric Cooperative. You will receive an annual allocation notice for patronage capital ("capital credits"). The payment/distribution of capital credits is at the discretion of the Nueces Electric Cooperative Board of Directors.
- Transmission and Distribution Service Provider (TDSP) standard per kilowatt hour and fixed monthly customer delivery service charges are included in the Electricity Facts Label pricing. There may be additional TDSP charges and fees for the establishment of new service, after-hours service, meter testing, service construction/line extensions, All TDSP charges will be passed through on your monthly bill. Bills will be issued within 30 calendar days after obtaining meter usage and other billing information from the TDSP, unless it becomes

necessary to validate the supplied usage information and billing information.

- **AEP Delivery Charges:**  
<https://www.aeptexas.com/account/bills/rates/AEPTexasRatesTariffsTX.aspx>
- **CenterPoint Delivery Charges:**  
<https://www.centerpointenergy.com/en-us/Corp/Pages/rates-and-tariffs-TX.aspx?sa=ho&au=res>
- **Oncor Delivery Charges:**  
<https://www.oncor.com/content/oncorwww/us/en/home/about-us/regulatory/tariffs-rate-schedules.html>
- **Texas New Mexico Power (TNMP) Delivery Charges:**  
<https://www.tnmp.com/retail-providers/tariffs>

- Your bill will be due upon receipt and will be considered delinquent if it is not paid by the 16th day after issuance of the bill. Non-payment of your bill may result in the termination of this agreement, or disconnection of your electric service, whichever is applicable, after proper notice.
- Late payments or delinquent or past due balances may result in a penalty of 5% of the current month's past due amount. NEC Co-op Energy may charge up to a \$25 insufficient funds fee for each check or electronic funds transfer (including automatic bank draft) not processed due to insufficient funds, lack of available credit or other bank return. This fee will be identified separately on your electric bill.
- NEC Co-op Energy may charge a "Drop To Affiliated CR" Notice Fee of up to \$25 to all customers who are sent a "Drop To Affiliated CR" notice due to termination of a contract with NEC CO-OP ENERGY. This fee will be identified separately on your bill.
- NEC Co-op Energy may charge a Disconnection/Termination Notice Fee of up to \$25 to all customers who are sent such notice due to nonpayment of their electric bill. This fee will be identified separately on your bill. If disconnection/termination occurs due to nonpayment, NEC CO-OP ENERGY may charge a disconnection/termination fee of up to \$50 and another fee of up to \$50 may be charged for reconnection.
- If meter readings or other billing information is not received from the TDSP, NEC Co-op Energy reserves the right to bill you based on estimated usage-related information which, if used, will be identified as "estimated" on your bill.
- Upon request, NEC Co-op Energy will provide you with your most recent 12 month's usage history, free of charge. If you request usage history other than your most recent 12 month's usage history or request usage history more than once within a 12-month period, a charge of up to \$25 (\$50 for IDR meters) may apply. This fee will be shown separately on your bill.
- Upon request, NEC Co-op Energy will provide you with additional bill copies, duplicate bills, credit reference letters or summary billing, for which a \$2 charge for each service may be applied. This fee will be shown separately on your bill.
- You may be charged up to \$5 per contact when NEC Co-op Energy and/or its agents make a customer contact (call or letter) for actions related to collection of any unpaid amounts. This fee will be shown separately on your bill and is in addition to fees for notices and/or a legal collection letter. NEC Co-op Energy may contact you at anytime by telephone at any telephone number associated with your account, including wireless telephone numbers. NEC Co-op Energy may also contact you by sending text messages or e-mails, using any e-mail address you provide to us. Methods of contact may include using pre-

recorded/artificial voice messages and/or use of an automatic dialing device.

- You may be charged up to \$25 per occurrence if NEC Co-op Energy or any of its agents send you a legal collection letter for any unpaid amounts. This fee will be shown separately on your bill. Non-payment of your bill beyond the due date may result in the termination of your electric service agreement or disconnection of your electric service, whichever is applicable, after proper notice. If you choose not to pay the amount due or make acceptable payment arrangements, NEC Co-op Energy will use debt collection agencies, small claims court and other legal remedies allowed by law to collect the amount you owe.
- You may be charged up to \$25 if NEC CO-OP ENERGY deems it necessary to submit your balance owed to a collection agency, in addition to any fees/charges from the collection agency. You agree to reimburse us the fees of any collection agency, which may be based on a percentage at a maximum of 50% of the debt, and all costs and expenses, including reasonable attorney's fees, we incur in such collection efforts.
- If a customer requests an investigation which results in findings NOT in favor of the customer, NEC Co-op Energy may charge you for the actual cost of the investigation.
- For termination of your agreement, you may incur fees and charges associated with these collection efforts. In addition to collection fees and charges, if your electric service is disconnected you may incur TDSP charges for disconnection and reconnection of your electric service.
- For payments made in a foreign currency, NEC CO-OP ENERGY will pass through to you any fees and charges it incurs in association with its (or its agent's) acceptance of foreign currencies.

NEC Co-op Energy offers **several convenient payment options** for which you may be eligible:

#### **NEC Co-op Energy Average Billing:**

Take the peaks and valleys out of your electricity bills with NEC Co-op Energy Average Billing. NEC Co-op Energy Average Billing sets your monthly bill based on your most recent 12-month average electricity usage, so you always know (within a few dollars) what to expect. While your account is on Average Billing, we will likely have to true-up your account every 12 months or sooner. Accounts that have a 35 kW demand or greater are excluded from this program.

#### **NEC Co-op Energy Summary Billing:**

If you have electric service at multiple locations but a single billing address, we will provide a summary where we roll all information onto a single bill.

#### **NEC Co-op Energy Automatic Bank Draft:**

NEC Co-op Energy Automatic Bank Draft makes sure your bill gets paid on time by directly debiting your bank account each month. You apply and we'll still send a monthly statement showing how much was paid. It is a very convenient way to pay.

#### **NEC Co-op Energy Online and Telephone Payments:**

You can choose to pay your bill by debit card, Master Card, VISA, Discover Card, or electronic check at no cost per transaction either online at [www.neccoopenergy.com](http://www.neccoopenergy.com) available 24 hours a day 7 days a week or by telephone during normal business hours, 8am – 5pm, Monday through Friday by contacting us at toll free 855-632-7348. After hours payments can be made for FREE by calling 855-632-7348.

#### **Special Payment Arrangements**

##### **Payment Extension- Full Payment By Next Due Date:**

If you cannot pay on time, *call NEC Co-op Energy right away*. We may allow you to pay an outstanding bill after the due date, but before the due date of the next bill. A special payment arrangement may include a 5% penalty for late payment. If you do not fulfill the terms of the special payment arrangement, your electric service agreement may be terminated or your electric service disconnected, after proper notice. NEC Co-op Energy may charge a payment extension fee of up to \$25 for all payment extensions after the first two (2) extensions in a 12 month period. This fee will be identified separately on your bill. Excessive special payment extensions/arrangements may result in the assessment of an additional deposit.

##### **Deferred Payment Plan:**

If you are unable to pay your bill you may qualify for a deferred payment plan, unless:

- You have received more than two termination/disconnection notices during the past 12 months; or
- You have taken service from NEC Co-op Energy for less than three months and you lack sufficient credit or a satisfactory payment history with your previous electric provider.

This plan may require you to make an initial percentage payment of the outstanding balance to initiate the agreement, with the remaining balance paid in equal installments. If you have received a disconnection notice and expressed an inability to pay, any deferred payment plan will include an initial payment not to exceed 25% of the delinquent balance and will allow the remaining balance to be paid in equal installments over at least three billing cycles.

A deferred payment plan may include a 5% penalty for late payment but does not include a finance charge. The Member or NEC Co-op Energy may initiate one renegotiation of the deferred payments plan if the member's economic or financial circumstances change substantially during the time of the deferred payment plan. By entering into a deferred payment plan, NEC Co-op Energy may put a switch-hold on your account. A switch-hold means you will not be able to buy electricity from other companies until this past due amount is paid. The switch-hold will be removed after final payment of this past due amount is processed. While a switch-hold applies, if you are disconnected for not paying or if the terms of the deferred payment plan are not fulfilled, your electric service agreement with NEC Co-op Energy may be terminated or your electric service disconnected, whichever is applicable, after proper notice. You will need to pay NEC Co-op Energy to get your electricity turned back on.

##### **Bill Payment Assistance:**

An energy assistance program is available to customers who have severe financial hardships and temporarily may be unable to pay their bills. The program is funded by contributions from NEC Co-op Energy customers. Please call us for fund availability and additional information.

##### **Refusal of Service:**

NEC Co-op Energy may refuse to provide service to a customer for one or more of the reasons specified in § 25.477 of the PUCT Substantive Rules (<http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>). If service is denied, you will be notified of the reason.

##### **Termination of Agreement:**

NEC Co-op Energy has the right to terminate or fail to renew your Terms of Service Agreement, with proper notice, for any reason allowed by law, including if:

- You fail to pay a bill for electric service or to make deferred payment arrangements, if available, by the date of termination stated on the termination notice.
- You fail to pay on an account you have guaranteed.
- You fail to comply with the terms of a deferred payment agreement.
- You interfere with service of others or operate non-standard equipment.
- You attempt to bypass the meter or other equipment.
- You fail to pay a required deposit.
- Market Conditions Change.

Termination of your Terms of Service Agreement with NEC Co-op Energy does not excuse you from paying any outstanding amounts owed to NEC Co-op Energy.

**Disconnection of Service – Without Notice:**

NEC Co-op Energy or the local TDSP may, at any time, authorize disconnection of your electric service without prior notice for any of the following reasons:

- You are operating under a dangerous condition.
- Where service is connected without authority by a person who has not made application for service.
- Where service is reconnected without authority after disconnection for nonpayment.
- Where you attempt to bypass the meter or tamper with other equipment.
- Where there is evidence of theft of service.

Disconnection of your electric service from NEC Co-op Energy does not excuse you from paying any outstanding amounts owed to NEC Co-op Energy.

**Disconnection of Service – With Notice:**

NEC Co-op Energy has the right to authorize the disconnection of your electric service if:

- You fail to pay a bill owed to NEC Co-op Energy for electric service or to make deferred payment arrangements on or before the date of disconnection stated on a "Disconnect Notice" that will be sent to you after your bill becomes past due.
- You fail to pay a required deposit.
- You fail to comply with the terms of a deferred payment agreement or special payment arrangement.
- You interfere with the electric service of others or operate non-standard equipment and NEC Co-op Energy has made a reasonable attempt to contact you to inform you of your obligation to remedy the situation. Disconnection of your electric service from NEC Co-op Energy will not excuse you from paying any outstanding amounts owed to NEC Co-op Energy.

**Dispute or Complaints:**

Please contact us if you have specific comments, questions, complaints or bill issues. Our friendly, knowledgeable Customer Care Advocates are trained to research and resolve any customer inquiry you may have. You may also contact the PUCT. Please refer to "Your Rights as a Customer" for more information.

**Force Majeure:**

NEC Co-op Energy will make commercially reasonable efforts to supply electricity but does not guarantee a continuous supply of electricity. Customer acknowledges that certain causes and events outside of NEC

Co-op Energy control ("Force Majeure events") may result in interruptions in service and NEC Co-op Energy shall not be liable for any such interruptions. NEC Co-op Energy does not generate electricity nor does it transmit or distribute electricity. Therefore, Customer agrees that NEC Co-op Energy shall not be liable for damages caused by Force Majeure events, including acts of God, acts of any governmental authority, acts of terrorists or enemies of the state, accidents, strikes, labor troubles, required maintenance work, inability to access the local distribution utility system, non-performance by the local distribution utility, or any cause beyond NEC Co-op Energy control.

**LIMITATION OF LIABILITY:**

LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES. NEITHER NEC CO-OP ENERGY NOR CUSTOMER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS AGREEMENT.

**REPRESENTATIONS AND WARRANTIES:**

THE ELECTRICITY SOLD UNDER THIS AGREEMENT WILL MEET THE QUALITY STANDARDS OF THE APPLICABLE LOCAL DISTRIBUTION UTILITY AND WILL BE SUPPLIED FROM A VARIETY OF SOURCES. NEC CO-OP ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE