



RULES TARIFF TERMS

This publication (the "Rules Tariff Terms") contains the rules governing services provided by Nicam Services (Nicam) as identified on <https://nicamservices.com> as well as the explanation of, and minimum charges for, optional services that may be requested by the shipper, consignee or third-party payor beyond those normally associated with standard transportation. Any exceptions to these rules and rates must be agreed to by all parties, by written contract or by confirmed written communication, prior to the shipment tender or prior to the performance of the services provided for herein.

I. APPLICABILITY OF THE RULES TARIFF

1. Application of Rules Tariff: Provisions in the Rules Tariff Terms apply to shipments tendered to Nicam, on or after March 03, 2024. These Rules Tariff Terms replaces all prior Rules Tariffs, those issued previously are null and void. This Rules Tariff Terms may be changed from time to time, and Nicam will endeavor to provide 30 days advance notice of such changes.

2. Application of Charges: The term "Customer" refers to the person or entity contracting to engage and/or the entity directly paying for Nicam services. The Customer warrants it has the authority to enter into this agreement and agrees to be bound by the terms of the Rules Tariff. Any party acting on behalf of the Customer, the beneficial owner, the shipper, or the receiver who accepts a shipment from or tenders a shipment to Nicam also agrees to be bound by the terms of the Rules Tariff. The Customer is responsible for ensuring that all such parties are given notice of the applicability of the Rules Tariff Terms. Charges for accessorial and other miscellaneous services included in this Rules Tariff Terms are in addition to rates charged for transportation services. Such charges are generally the responsibility of the Customer paying the trucking charges. Nicam will bill the Customer as a convenience to the shipper and/or consignee and retain recourse to the shipper and/or consignee for nonpayment of fees. Any Customer that bills or collects on behalf of another third-party freight charges that are due to Nicam shall receive such payment in constructive trust, to the extent such charges are due and owing to Nicam. Nicam reserves the right to pursue the actual shipper, beneficial owner, and/or consignee of any shipment for unpaid charges regardless of whether the underlying bill of lading is marked prepaid or collect.

4. Bill of Lading: Customers shall be deemed to have used the Uniform Bill of Lading found in 49 C.F.R. 1035 Appendix A whenever tendering freight to Nicam. Drivers will accept other bills of lading as receipt of goods only. The terms and conditions expressed on nonconforming bills of lading will not apply when they conflict with the terms and conditions of this Rules Tariff.

II. PAYMENT AND CHARGES GENERALLY

1. Accessorial Charges – Approval/Confirmation: Upon presentation of charges by Nicam, approval/confirmation must be received by the applicable terminal within 24 hours. If Customer fails to confirm the accessorial charges presented, tacit approval will have been deemed as received.

2. Advanced Storage Charges: At Customer's written request and subject to authorization, Nicam will forward immediate payment to railroad for storage on loads awaiting delivery. However, an additional 5% will be assessed in addition to the railroad storage charges.

3. Advancing Charges: When Nicam is required to advance fees on behalf of Customers, an administrative fee of ten (10) percent will be assessed. A minimum charge of \$25.00 will apply.

4. Offsetting Charges Not Allowed: Customer shall not offset from or delay the payment of lawfully established transportation charges due Nicam as a result of any overcharge claim, charge-back, duplicate payment, or loss and/or damage cargo claim. A formal claim shall be filed and processed separately.

5. Payment Terms: Nicam may elect at its sole discretion to extend credit to the Customer. In accordance with 49 CFR 377, All invoices are due and payable within fifteen (15) days of the invoice date. Nicam may assess a finance charge of 12% per year (0.0329% per day) on charges that are not received by Nicam when due. Nicam's policies on finance charges are designed to comply with usury laws. If the finance charge exceeds allowable limits, then the applicable rate(s) will be automatically reduced to the maximum allowed. Customers are expected to pay all of the fees, charges, and costs billed to them. All expenses incurred by Nicam to collect money owed shall be paid by the Customer. In the event that suit must be filed to collect any money owed, the Customer shall pay the reasonable attorney's fees (calculated pursuant to the Lodestar method), costs, and expenses of Nicam.

6. Payment – Short: Customer may not "short pay" freight charges or deduct charges from freight bills, unless authorized to do so in writing, prior to the deduction. Customer waives its right to any contested cargo claim that is set off against freight charges.

7. Rebilling Fee: In the event the originally invoiced party (debtor) fails to pay any charges and Nicam must bill another party, a charge of \$25.00 will be added to the invoice to defray Carrier's costs of re-billing, printing, mailing and conducting related collection activities.



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8. Returned Check Fee: Upon receipt of written notification that a check has been returned to Nicam for non-payment due to insufficient funds, a fee of \$75.00 (plus any bank fees borne by Nicam) for each returned check will be applied against the customer's account. Customer may be placed on a "cash only" basis if not cleared to the satisfaction of Nicam.

9. Recourse With regard to Liability of Charges: All assessorial charges, including but not limited to rail storage, demurrage, per diem, etc., are the responsibility of Customer. Nicam has full recourse and permission of the contracting party, including but not limited to door moves with equipment owners, to seek and recover any and all funds from the shipper, consignee, etc.

10. Storage Liability: Certain shipments may be temporarily stored on Nicam's premises, either for the convenience of Customer or for that of Nicam. Nicam's legal liability for such shipments will be that of a motor carrier and limited pursuant to Section III of the Rules Tariff. Nicam's legal liability is also that of a motor carrier in the event Customer or consignee refuses delivery of tendered cargo and instructs Nicam to stop the movement of cargo and hold it for later delivery or otherwise prevents proper disposition of the cargo. Nicam's liability will not exceed \$.10 per pound of the goods stored. If the weight of the goods is unknown the weight shall be deemed to be 45,000 lbs. For shipments held pursuant to this paragraph Customer may request an increase in legal liability by submitting a written request for a higher released value and paying an additional charge as described in section III of the Rules Tariff. In addition, daily storage charges will apply at a minimum rate of \$150.00 per day. In order to reduce or eliminate storage charges at a rail ramp or ocean pier, Nicam may shuttle a loaded intermodal unit to an offsite drop yard. Nicam's legal liability for such shipments will be that of a motor carrier and limited pursuant to Section III of the Rules Tariff. Additional Charges are usually billed for such moves. If such a shuttle is done for the Customer's convenience or benefit, Nicam will accept no liability for per diem charges that may accrue while the equipment is at the drop yard.

III. CARGO LIABILITY AND FREIGHT LOSS AND DAMAGE CLAIMS

1. Cargo Liability Generally: Nicam's cargo liability does not commence until equipment is pulled from a port, intermodal facility, or a loading or unloading facility. Nicam will not be liable for freight loss, damage or delay caused by the acts or omissions of any other party or their agents; failure to comply with Nicam's loading instructions; illegal acts; weather conditions; riots; labor strikes; pandemics; nature or inherent vice of the goods; public unrest; or when the freight is not in Nicam's exclusive possession. Nicam does not agree, under any circumstances, to be liable for special or consequential damages arising from freight loss, damage or delay, regardless of notice.

2. Cargo Liability for Intermodal and International Shipments: Nicam's cargo liability for shipments that include transportation by vessel or railroad prior to or after the services provided by Nicam, shall be limited to the lesser of \$.10 per pound (based on the weight of the goods listed on an applicable bill of lading or if none 45,000 lbs.). If any bill of lading is issued by another carrier, such as a rail or ocean carrier, that has limited liability terms, including, but not limited to, a maximum value per pound or package limitation, the cargo liability of Nicam will be the lesser of the limitation of liability above or the limitation of liability as stated on or incorporated into that bill of lading ("International and Intermodal Liability Terms"). In no event shall Nicam be liable for any special, incidental, consequential, punitive, or indirect damages. Customer may request an increase in legal liability including liability consistent with the Carmack Amendment to the Interstate Commerce Termination Act (49 U.S.C. §14706) by submitting a written request for a higher released value, paying an additional charge equal to the difference between the desired Released Value and the International and Intermodal Liability Terms, and executing a Released Value declaration ("Released Value Request"). If a shipment is tendered to and accepted by Nicam without Customer following the Released Value Request process, Customer acknowledges and agrees that it has elected to tender a shipment(s) to Nicam pursuant to the International and Intermodal Liability Terms.

Claims for loss or damage to property transported by Nicam as part of an intermodal shipment as described in 49 CFR § 1090 et seq., or which is governed by an ocean bill of lading must be submitted within three (3) months following delivery and in the case of non-delivery three (3) months following the date the shipment would have been delivered. Any action at law with respect to such a claim must be instituted against Nicam within a period of eleven (11) months from the date of receipt of notice from Nicam that the claim or any part, or parts, thereof were declined.

3. Standard Cargo Liability: Nicam's liability for cargo loss or damage for shipments that do not include transportation by vessel or railroad prior to or after the services provided by Nicam will not exceed \$100,000.00 per occurrence, and shipments will not be accepted unless released to a value of \$100,000.00 ("Standard Liability Terms"). Customer may request an increase in legal liability by submitting a written request for a higher Released Value, paying an additional charge equal to the difference between the desired Released Value and \$100,000.00 and executing a Released Value Request. If a shipment is tendered to and accepted by Nicam without Customer following the Released Value Request process, Customer acknowledges and agrees that it has elected to tender a shipment(s) to Nicam pursuant to its Standard Liability Terms. Regardless of whether Customer utilizes Nicam's Standard Liability Terms or elects to obtain liability terms through a Released Value Request, Customer acknowledges that under no circumstances will Nicam be liable for any special, incidental, indirect, or consequential damages (including, without limitation, lost profits or business opportunity) or punitive or exemplary damages incurred or suffered by the shipper as a result of coverage, shortage, or damage to shipments transported. Claims for loss or damage to property transported by Nicam not considered part of an intermodal shipment as described in 49 CFR § 1090 et seq., or which are not governed by an ocean bill of lading must be filed with Nicam within nine (9) months following delivery and in the case of non-delivery nine (9) months following the date the shipment would have been delivered and must



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conform with the requirements of 49 U.S.C. 14706. Any action at law with respect to such claim must be instituted against Nicam within a period of two (2) years and one (1) day from the date of receipt of notice from Nicam that the claim or any part, or parts, thereof were disallowed.

4. **Prohibited or Restricted Articles:** The following property will not be accepted for shipment nor as premiums accompanying other articles:

a) Bank Bills, Museum Exhibits or Articles of Antiquity, Coins, Monetary Notes, Currency Original Works of Art, Deeds Postage Stamps, Drafts, Precious Stones, Letters, Revenue Stamps, Valuable papers.

b) Articles of extraordinary value (in excess of \$200,000.00) will not be accepted for shipment or as premiums accompanying other articles.

c) Nicam shall not be liable for any loss or damage to any prohibited or restricted articles should the consignor tender such articles to Nicam in contradiction of this provision. The Customer agrees to defend, indemnify and reimburse Nicam for any physical harm, damage or liability that may result in any way from the transportation of any prohibited or restricted article as identified above.

5. **Sealed Containers:** Nicam neither assumes nor has any obligation to inspect shipments for seals or security devices intended to prevent unauthorized access to a shipment; however, Nicam reserves the right in its sole discretion to inspect or not inspect shipments for such seals or security devices. In addition, Nicam neither assumes nor has any obligation to determine when a security device is appropriate. In the event that a shipment requires special security measures (such as high security seals, shrink-wrap, paper coverings and the like), it is the duty of the Customer to determine and take the appropriate security measures. Documentation of the application of security devices at shipment origin is the responsibility of the Customer. In determining the extent, if any, of Nicam's responsibility as a common carrier for loss, damage or liability to a shipment, the absence of or damage to a seal without physical evidence of contamination, loss or theft does not establish injury, loss, or damage to a shipment. Nicam shall have no liability for any loss, coverage and/or shortage where Nicam is tendered a shipment with a seal(s) and there is no evidence of a change to the seal(s) while the shipment is in Nicam's possession.

6. **Concealed Damage:** Claims for concealed freight loss or damage must be reported to Nicam within 48 hours after delivery, and Nicam must have an opportunity to inspect such shipments. Inspections will be scheduled within seven (7) days after receiving such a request at a date and time mutually agreeable between Nicam or its agent and Customer and/or its shipper, consignee or beneficial owner.

7. **Cargo Claims Requirements:** Only the Customer may initiate and maintain a claim for cargo loss and damage or a suit against Nicam. Any party other than the Customer shall not have a claim or cause of action against Nicam for loss or damage to cargo. Any claim submitted or filed by any party other than the Customer with Nicam or any other entity will not be recognized as the Customer's claim to Nicam without an assignment of rights to that entity by the Customer. All claims must identify the shipment involved, assert liability for a specified amount of money, and must be supported by copies of every applicable bill of lading and delivery receipt. Failure to comply with the claim filing requirements described herein shall forever bar recovery of a claim.

8. **Requirements for Filing Suit:** Filing a claim as prescribed in this Rules Tariff Terms is a prerequisite before the Customer can bring a suit for loss or damage against Nicam. Suit must be filed in compliance with Section VII. 5. of the Rules Tariff. Only a claim filed with Nicam and by Nicam's Customer can qualify as a valid claim for recovery of amounts sought in connection with loss or damage to the cargo to which the claim pertains. In order for a claim from the Customer to be recognized as a valid claim, the claim must meet all the requirements set forth in the Rules Tariff.

9. **Claims – Filing:** In the event a freight claim needs to be filed, forms can be obtained by emailing info@nicamservices.com the Corporate Claims Department. Claims for damages require an inspection to be made prior to filing. Inspection by Nicam or an independent agent will typically be scheduled within two business days after receipt of request. Inspection will include an examination of the damaged merchandise and the shipping container. The inspection will be limited to a factual report and normally be accompanied by pictures. A written record of the Inspector's findings will be made in duplicate with a copy of the report given to the consignee. The inspection report is NOT a claim. To expedite the claim process, it is the responsibility of the claimant to file a cargo claim within prescribed time limits and to respond back immediately to any requests from Nicam for supporting documentation. The claim will be concluded based on facts determined during the investigation.



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The following written information is required:

- Must specify a dollar or determinable amount.
- Reason for claim (loss or damage).
- Pro number and bill date.
- Claimant name, address, telephone, email and fax number.
- All applicable Bills of Lading.
- Copy of Delivery Receipt (not applicable on a complete shortage).
- Verification of paid freight charges.
- Only one shipment (pro) per claim.

IV. LIABILITY FOR SERVICES

- 1. Appointments:** Nicam will not accept liability for any Detention Charges resulting from rescheduled appointments unless the appointment was rescheduled due to any failure of Nicam.
- 2. Customs or In Bond Freight:** Shipments moving under United States customs Bond for U.S. Customs clearance at a point in the United States will be assessed a \$150.00 per shipment charge. Such charges shall be in addition to all other applicable charges. On shipments requiring the use of more than one trailer, such trailer shall be considered as a separate shipment for the purposes of this provision and subject to a \$150.00 per shipment charge. Line haul charges on shipments requiring the U.S. Customs clearance at a point other than the final destination will be assessed on the basis of rates and charges applicable from point of origin to the point of U.S. Customs clearance, plus the rates and charges applicable from points of U.S. Customs clearance to the final destination. Import freight moving in Bond may not be included in the same shipment on the same bill of lading and shipping order with freight not moving in Bond. Shipments moving under U.S. Customs Bond will not be allowed to stop in transit or split pick up or split delivery. Detention charges, if any will be assessed against the party responsible for the line haul charges. For the purpose of applying storage rules and charges in connection with shipments moving under U.S. Customs Bond, notification to the Deputy Collector of Customs that a shipment is available for Customs inspection will constitute tender of shipment for delivery. When Nicam is required to pick up shipping documents or U.S. Customs Release Forms for forwarder or broker for validation prior to pickup of a shipment, a charge of \$100.00 per shipment will apply.
- 3. Hazardous Materials:** Customer must comply with applicable federal regulations, including 49 CFR Parts 100 to 185, when tendering hazardous materials. Among other requirements, Customer must provide a legible bill of lading with proper Hazmat information, including the shipper's certificate containing all required information such as emergency response number and information, and affix any required placards before or at the time that the shipment is tendered. Failure to comply with these requirements will relieve Nicam of any and all liability for loss or damage directly or indirectly caused to or by the hazardous materials. Any mis-declared hazardous materials may be warehoused at Customer's risk and expense or destroyed without compensation.
- 4. Hazardous Materials Charge:** Shipments of hazardous materials will be subject to an additional charge of \$150.00 per shipment per vehicle used.
- 5. Insurance Coverage:** Insurance Certificates will be provided at Customer's request. The certificate will include all General Liability, Automobile Liability, Motor Truck Cargo and certain other coverage where necessary. At the Customer's request, they will be shown as a certificate holder.
- 6. Overweight Liability:** Nicam will not knowingly violate weight restrictions under federal, state, or municipal laws. Customers must provide advance notification of overweight shipments. Nicam will take whatever actions are necessary to bring equipment into compliance. Customer must reimburse Nicam for any expenses required to bring equipment into compliance and must pay any fines or expenses resulting from overweight violations.
- 7. Overweight Charges:** Nicam will assess a minimum charge of \$150.00 for overweight shipments which can be properly permitted and therefore transported legally. The amount of such charges will be established and agreed to at the time of the shipment.



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8. Special Instructions: Except where Nicam has accepted special instructions in writing, and has issued written acknowledgement of its acceptance thereof, the Customer warrants that the Cargo does not require insulated, refrigerated, ventilated, or other special storage or handling not disclosed to and agreed to by Nicam at or before the time of Customer's request for services with respect to such shipments.

9. Transportation Delays: Nicam will provide transportation with reasonable dispatch and will use commercially reasonable efforts to meet all reasonable pickup and delivery appointments. However, Nicam will not guarantee adherence to any particular transit or appointment schedule, and are not liable for delay, interruption, or other failure to transport any shipment by any particular appointment time. Nicam will not be liable for alternative transportation costs, or other direct expenses or consequential, special, indirect, or exemplary damages arising out of any delay to shipments, unless Customer has provided a prior written description of the nature and type of such potential delay-related damages, and Nicam has agreed in writing to accept responsibility for such damages. Customer notations on a Bill of Lading signed by a driver do not constitute adequate notification and/or acceptance of such special damages.

V. PER DIEM AND STORAGE

1. Per Diem Charges - Billed to Nicam: Nicam will not accept liability for Demurrage and or Per Diem Charges if such charges are not due solely to Nicam's own gross negligence, including per diem charges that begin accruing after the date the equipment is dropped at a shipper/consignee or other location at the direction of the Customer, shipper or consignee. The Customer shall be liable for payment to Nicam of all per diem charges. Nicam will charge to the Customer, the equipment owner's actual or anticipated charges, less any portion for which Nicam Companies are solely liable. An administrative charge of \$25.00, per invoice issued by Nicam, will be added to the equipment provider's charges. Customer may be invoiced immediately upon return of the equipment to its rightful owner. In the event of nonpayment, Nicam reserves the right to look to the shipper, consignee or Drop Location for reimbursement of per diem charges.

2. Storage, Demurrage and/or Per Diem (Container Detention) Charges (collectively "Container Detention Charges") Billed Directly to Third Parties: Storage is incurred for failure to pick up loads at the railroad within the designated amount of free time. Demurrage and/or Per Diem is incurred for failure to pick up loads at the port or container depot yards within the designated amount of free time. Container Detention Charges are often billed directly to the Customer or third party instead of Nicam. This includes but is not limited to, store-door detention charges for international moves, and EMPU, EMHU, CSXU, UMXU and other intermodal containers for domestic moves ("Containers"). Customers may then invoice Nicam for the portion of the Detention Charges for which it is liable. For Containers that are scheduled to be live loaded or unloaded, Nicam shall have 48 hours from the pickup or delivery appointment time to return equipment to the rail or port facility. For Containers dropped at a facility by Nicam at a Customer's instruction for loading or unloading or for loaded Containers available to be removed from a port or rail facility, Nicam will be allowed 48 hours free time to pick up Containers (day of notification, weekend and Holidays excluded). In the event the standard practice for a particular facility is to wait for an inbound shipment to swap for the to-be terminated Containers Nicam's will be allowed 48 hours free time to pick up Containers from the time an inbound shipment becomes available. In the event Nicam fails to remove Containers within free time, Container Detention Charges will be Nicam's responsibility. Nicam will not accept responsibility Container Detention Charges when proper notification is not provided or 48 hours free time is not allowed. In the event Container Detention Charges is incurred, Nicam requires continued notification on a daily basis that Container Detention Charges are accruing for its account. Nicam will not accept storage, demurrage, or per diem charges without daily notification. Proper Notification is defined as, "written notification" (e-mail) at least 48 hours (excludes Holidays, Saturdays and Sundays) prior to expiration of free time and only when the equipment is ready and available for pick up. "Proper Notification"

Requirements:

1. Container
2. Number
3. Location of
4. container
5. Mounted on road
6. worthy chassis Ocean
7. Carrier released
8. Available pick-up
9. number

Notification received after 12:00 PM will roll to the next working day at 8:00 AM for the purpose of determining last free day. Customer may not invoice Nicam for Container Detention Charges for any amount that is higher than Customer's obligation to the equipment owner. Customer may not "short pay" freight charges or deduct charges from freight bills, unless authorized to do so, in writing, prior to the deduction. Nicam will not accept invoices without proper backup documentation, or invoices that are received more than 30 days after equipment termination. Nicam reserves the right to dispute the charges within 30 days of receipt of the proper documentation and invoice. If Customer response to any such dispute is not received within 30 days, it will be presumed that the dispute has been accepted and the invoice voided.



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3. **Per Diem - Calculation of Charges:** Equipment owners typically charge escalating daily rates for Equipment Detention. Nicam will only pay the "Average Daily Rate" for the per diem period. This is defined as the total amount of the per diem divided by the number of days.

4. **Spotted/Dropped Equipment:** When third party equipment is "Dropped or Spotted" at a location for loading or unloading, the Customer is financially responsible for the equipment per diem charges assessed by the equipment provider. The Customer or its designated agent must notify Nicam by means of written communication (E-mail) within twelve (12) hours of the trailer being made available for pick up. The Customer will be responsible for any damage to equipment while said equipment is in its care custody and control. In the event of non-payment, Nicam reserves the right to look to the shipper, consignee and/or any other where a customer requests Nicam to spot a container ("Drop Location") for payment of demurrage charges, chassis charges and/or charges resulting from damage to equipment while at the shipper, consignee and/or Drop Location.

VI. OTHER CHARGES AND ADDITIONAL TERMS AND CONDITIONS

1. **Cash Advances:** When Nicam is required to advance fees on behalf of customers, an administrative fee of ten (10) percent will be assessed. A minimum charge of \$25.00 will apply.

2. **Chassis Rental:** Minimum charge for: a) Standard chassis @ \$50.00/day, b) Tri-axle chassis @ \$100.00/day. Please contact the applicable terminal for specific information and confirmation of applicable charge.

3. **Collect Shipments tendered by Customer:** Nicam will accept collect shipments tendered by the Customer on the express condition that the Customer will be the guarantor of the freight charges should the consignee fail to pay Nicam within the established credit terms. Shipments subject to the provisions of this item will be accepted only when the Consignor has established credit with Nicam and guarantees to pay all lawfully accrued charges if the third party fails to do so within the time allowed under the credit policy of the company. The non-recourse provisions of Section 7 of the Bill of Lading contract will be null and void on shipments tendered under the provisions of this item. The terms of this item shall not be construed as a waiver of Nicam' right to seek recourse against the actual shipper, consignee, and/or beneficial owner and Nicam specifically reserves the right to pursue those entities in addition to the Customer and/or Consignor.

4. **C.O.D. Shipments:** A charge of \$100.00 will be added to the regular rate. However, the conditions listed below must be met. It is the sole responsibility of the Customer to make all arrangements for the C.O.D. transaction.

a) All necessary instructions must be completely explained on the prenote or load tender,

b) The specific form(s) of payment must also be explained on the prenote or load tender,

c) Customer may incur redelivery charges and/or power detention if the C.O.D. transaction is not completed in a timely manner.

5. **Detention – Vehicles with Power Units:** When the Nicam's vehicles, with driver and power units, are delayed or detained beyond the free time (see "Free Time" item) provided for herein at time of delivery to the consignee or at time of pick-up at the shipper's place of business when such delay is not the fault of carrier, the following will apply.

a) Charges for detention will be charged to the Customer. Additionally, in the event of nonpayment by Customer, Nicam will hold the consignee liable in the case of unloading and to the shipper in the case of loading.

b) When computing time, the beginning time shall be the time the driver notifies the shipper or consignee of driver's arrival and that the trailer is available for loading or unloading, as the case may be, but in no case shall time commence prior to the time of any appointment or the actual time of loading or unloading, whichever is first.

c) When computing detention charges, detention time shall apply, irrespective of lunch breaks, coffee breaks, rest breaks, etc.

d) If, at the end of the business day, unloading has not been completed and cannot be completed that day, the Customer shall be given the following options:

i) Carrier may return to carrier's terminal with what freight has not been unloaded, but carrier shall return the following day with the balance of the freight at the commencement of shipper's or consignee's workday; or,

ii) Carrier will drop or spot trailer at shipper or consignee location and return the following day, and further, trailer will be subject to charges for detention without power, including all per diem charges assessed by equipment providers, beginning immediately upon spotting of the trailer, and additional transportation charges. In either case, any unused free time from the first day will continue into the second day, charges to commence when all free time has expired.



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iii) If a vehicle is both unloaded and reloaded, each transaction will be considered separately and free time shall apply to each separately.

iv) When delay occurs beyond free time, the charge for detention shall be \$60.00 per one-half hour.

v) Nicam shall give shipper or consignee the opportunity of signing the detention records and the shipper or consignee is to make any corrections to these records at the time. If shipper or consignee refuses to sign these records, Nicam's records will govern.

6. Equipment Damage Charges: Damages of any kind incurred to Equipment of any type (whether owned by Nicam or by another equipment provider) while at a facility of and/or under the care, custody and control of the Customer, shipper or consignee, will be the responsibility of the Customer. The failure of the shipper or consignee, or their respective agents and spotting service to note damage at time of tender shall be prima facie evidence that same was spotted in good condition. Customer shall be liable for the repair cost to any equipment damaged while spotted at a shipper, consignee and/or Drop Location. Such damage shall be noted by carrier personnel at time of pickup and invoices for repairs shall be accompanied by supporting documents. Nicam reserves the right to recover any unpaid charges from the shipper, consignee, or Drop Location as necessary.

7. Equipment Ordered – Not Used: Cancellation of an order must be made prior to dispatch. If equipment is dispatched, the regular rate will be charged. Also, additional charges will apply to return the equipment to Nicam terminal for storage. The Customer will also be responsible for payment to Nicam for any per diem or penalty charges by the railroad or other equipment supplier.

8. Equipment Cleaning: It is the Customer's responsibility to ensure that the consignee accepts the entire contents of the vehicle; including all cargo, damaged product, spillage, leakage, dunnage, bracing, debris, contaminants, etc. If the consignee does not properly clean out the empty vehicle, an additional minimum charge of \$250.00 will apply. Customer will also be responsible for any disposal charges incurred by Nicam for the proper disposal of any material left in the trailer. Other additional charges such as: washout costs, disposal costs, stop-off charges and possible out-of-route mileage charges may also be incurred as needed.

9. Free Time – Loading/Unloading: Nicam will allow one (1) hour free time before detention time commences. Any exceptions to this Free Time rule must be agreed to, by all parties, by written contract or by confirmed written communication, prior to the shipment tender or prior to the performance of the services provided for herein.

10. Fuel Surcharge: Due to the unpredictable nature of fuel prices, Nicam will apply fuel surcharges to all shipments unless agreed to, in writing, at the time of the load tender. Absent a specific written agreement or schedule, the following Fuel Surcharges will apply. Current fuel prices will be based on the index published by the U.S. Department of Energy.

11. General Application of Rates: Line-haul charges from or to points where direct service is authorized by Nicam's certificates will not apply from or to points not directly accessible to truck service because of weight, size or hazardous material restrictions, or because of geographical location. For such points, line haul charges will apply to the point of transfer to other transportation for delivery only. Additional transportation and delivery charges will apply. Rates published "for the Account of" will apply only when freight charges are paid by the named account. Rates published "From the Facilities of" apply when freight originates at that specific location, without regard to the party responsible for payment. Absent a specific written agreement, the following rates will apply to shipments tendered to Nicam: the greater of \$4.00 per mile, \$500.00 minimum charge.

12. Labor Charges: Charges for Driver Unload, Driver Assist, Driver Count, etc. will incur the following charges. \$100.00 for the first Hour and then \$50.00 per one half hour thereafter.

13. Layover Charge: When Nicam is requested to layover due to circumstances beyond its control a charge of \$500.00 will be assessed.

14. Lien for Freight Charges: Nicam shall have a possessory lien on shipments in its possession and control for the payment of unpaid freight charges owing and due to Nicam.

15. Lumper Charges: Lumper fees and charges assessed by shippers or consignees will be charged to the Customer on an actual cost basis. Nicam will add a ten (10) percent administrative fee subject to a minimum charge of \$25.00. Nicam will submit supporting receipts with its invoice for the charges.

16. Mileage Computation: Mileage shall be computed from the point of loading to the points of unloading by the practical direct highway miles and shall be calculated by the use of PC Miler (Practical Miles) mileage tool. When stopping in transit to load or unload part of the load, the mileage to be used to determine the charges is the aggregate of the mileage from the origin point of the shipment to the destination via the stop-off points. Mileage required by the order of loading or unloading and as specified on the Bill of Lading shall be used to determine the applicable charges. If after receipt of the shipment by Nicam and while in route, the Customer requests stopping in transit in a different order of unloading or loading than as received and specified on the bill of lading, the aggregate mileage of the new route of movement shall apply. There will be an additional charge for labor required to unload, shift or reload the freight to accomplish out-of-sequence deliveries (see Labor Charges). These charges shall be in



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addition to all other charges. If the route of movement by virtue of the content of hazardous materials, or because of being overweight or over dimension, the closing or prohibition of use of bridges, tunnels, or highway sections requires a longer route by the Public Authority, charges based on mileage of the required longer route shall apply.

17. New York City Congestion Charges: Shipments originating at or destined to New York, NY (points in the Boroughs of Bronx, Brooklyn, Kings, Manhattan and Queens) and points in Nassau and Suffolk Counties, an additional \$150.00 per shipment will be charged in addition to all other lawfully published charges.

18. Pallet Exchange: This service is not provided. Nicam will not be responsible for any

19. Pick-Up or Delivery Service - Saturday, Sunday or Holiday: When the Customer requests Nicam to pick up or deliver freight on Saturday, Sunday or Holiday, such service shall be subject to an additional charge. (a) \$250.00 Saturday (b) \$350.00 Sunday or Holiday.

20. Pre-Notification: All valid pre-notes must state the line haul rate and fuel surcharge. Prenotes must also include any accessorial services requested, as well as any pre-approved charges that may differ from this Rules Tariff. Nicam reserves the right to decline any shipment for any reason.

21. Re-consignment or Diversion:

a) Definitions of Re-consignment or Diversion: For the purpose of this rule, the terms "re- consignment" and "diversion" are considered to be synonymous and the use of either will be considered to mean:

- i) A change in the name of the shipper or consignee.
- ii) A change in the place of pick up or delivery within the original origin or destination point.
- iii) A change in the origin or destination point.
- iv) Relinquishment of a shipment at point of origin.

b) Conditions:

- i) Requests for re-consignment must be made in writing or confirmed in writing.
- ii) Nicam must be satisfied that the party making the request has the authority to do so. Conditional or qualified requests will not be accepted.
- iii) Nicam will make a diligent effort to execute a request for
 - (1) re-consignment but will not be responsible if such service is not effected.

iv) All charges applicable to the shipment whether accrued or accruing must be paid or guaranteed to the satisfaction of Nicam before reconsignment will be made.

v) Only entire shipments, not portions of shipments, may be re-consigned.

vi) An order for re-consignment of a shipment moving under uniform

(1) bills of lading will not be considered valid, unless and until the original bill of lading is surrendered for cancellation, endorsed or exchange.

c) Charges:

i) If a re-consignment occurs prior to tender of delivery the charge

(1) will be \$25.00 plus reasonable charges for transportation of the new delivery point. A minimum charge of \$100.00 will apply.

ii) If a re-consignment occurs after the tender of delivery the charge will

(1) be \$100.00 plus reasonable charges for transportation the new delivery point. Minimum charge is \$250.00.



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22. **Re-delivery Charges:** When Nicam has presented the requested equipment at the shipper/consignee facility as instructed by the Customer, and is subsequently turned away, the regular rate to the facility will be assessed. A redelivery charge equal to the regular rate will then be added when the equipment is again presented to the facility for loading/unloading.

23. **Return Moves:** A Bobtail charge may be billed to terminate empty or loaded equipment that is accruing per diem charges, if no return move is immediately available when the tractor drops the equipment. Customer may avoid such Bobtail charges by notifying the Nicam Company, in writing, of Customer's agreement to pay for all per diem or charge incurred as a result of forgoing the Bobtail move. Such charges do not apply to "staywith" moves.

24. **Stop-Off Charges:** Shipments subject to truckload rates and truckload minimum weights, received from one shipper at one point at one time for one consignee at one destination and covered by one bill of lading, may be stopped for partial loading and or partial unloading, subject to the following provisions:

- a) Each stop-off is limited to one placement of the truck.
- b) Stop-offs for partial loading or partial unloading will not be permitted on shipments moving "In Bond" or where Section 7 of the bill of lading has been executed.
- c) The substitution of freight for that originally loaded or any exchange of contents at a point or place of stop-off is prohibited.
- d) Charges: Any stop-offs in route will be charged at the following rates: \$150.00 each stop-off. One (1) hour free will be allowed at each stop.
- e) Detention Charges will apply. Out-of-route stop-offs will be subject to an out of route mileage charge.

25. **Weighing/Scale Charges:** When Customer requires weighing of the shipment the stop off charge plus any out-of-route miles, will apply. In addition, the customer is responsible for reimbursing Nicam for any incurred scale or weighing fees plus a \$15.00 administrative fee.

VII. General Terms and Conditions

1. **Headings:** All headings are utilized herein only as a matter of convenience and reference, and in no way define, limit, or describe the scope of the terms contained therein.

2. **Indemnification and Warranties:** CUSTOMER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS NICAM FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITIES, FINES, JUDGMENTS, PENALTIES AND AMOUNTS (INCLUDING REASONABLE ATTORNEY FEES) ARISING FROM OR RELATED TO: (i) BREACH BY CUSTOMER OF THIS RULES TARIFF; (ii) THE NEGLIGENCE OR OTHER WRONGFUL CONDUCT OF CUSTOMER, ITS REPRESENTATIVES, CONTRACTORS OR EMPLOYEES; (iii) VIOLATION BY CUSTOMER, ITS REPRESENTATIVES, CONTRACTORS OR EMPLOYEES OF ANY APPLICABLE LAWS, RULES OR REGULATIONS; (iv) NICAM' COMPLIANCE WITH OR RELIANCE ON ANY INSTRUCTIONS, DIRECTIONS, OR REQUEST OF CUSTOMER, OR (v) WHERE THE CUSTOMER IS NOT THE OWNER OF THE CARGO, CLAIMS ASSERTED BY THE OWNER OF THE CARGO AGAINST NICAM. THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED.

3. **Integration:** Nicam and Customer intend that no extrinsic evidence may be introduced to reform the Tariff Rules Terms in any legal or equitable proceeding unless contained in a written and signed agreement.

4. **No Modification:** Notice is hereby given that no person, other than an officer or director of has or will be given authority to agree to any modification, cancelation or waiver of this Rules Tariff Terms. No waiver, modification, or cancelation and/or purported waiver, modification, or cancelation on the part of Nicam shall be deemed to bind Nicam unless made in writing and signed by an authorized officer or authorized delegate. Any waiver on the part of Nicam of any term or condition of this Rules Tariff Terms shall not constitute a precedent, nor require Nicam to continue waiving such term or condition or to waive any succeeding breach of the same or any other of the terms and conditions of this Rules Tariff. To the extent there is a conflict between the terms of the Rules Tariff Terms and any written agreement entered into by Nicam, the terms of the written agreement will prevail.

5. **Florida Contract and Jurisdiction** – Any party doing business with Nicam. hereby submits to the jurisdiction of the State of Florida and agrees to litigate any disputes in the United States District Court of Florida. If the United States District Court of Florida does not have jurisdiction over a matter, then suit shall be filed in the applicable state court in Miami Dade County Florida regulatory laws binding upon carriers.

6. **Waiver:** Failure of Nicam to insist upon the Customer's performance under the Rules Tariff Terms or to exercise any right or privilege herein, will not be a waiver of any rights or privileges. To the extent applicable, Nicam and the Customer hereby expressly waive any and all conflicting rights and remedies under the Interstate Commerce Commission Termination Act and Interstate Commerce Act as amended, and regulations



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promulgated thereunder, including Part B of Subtitle IV Interstate Transportation, 49 U.S.C. § 13101, et seq., including 49 U.S.C. § 14706 and 49 U.S.C. § 14101(b) (collectively the "Acts"). The Rules Tariff Terms in conjunction with any applicable agreement(s) are a contract for specified services provided under specified rates and conditions. Neither Evans nor Customer shall challenge any provision of the Rules Tariff on the grounds that any provision(s) violate the waived rights and remedies under the Acts. For the avoidance of doubt, this waiver does not waive the preemption of state law claims by the Acts.

7. Severability: In the event any paragraph(s) and/or portion(s) hereof are found to be invalid and/or unenforceable, then in such event, the remainder hereof shall remain in full force and effect.

8. Substituted Service: For their operating convenience, Nicam's reserves the right to hire other qualified carriers as subcontractors to provide all or part of a given movement. Nicam's agrees to protect the rates set forth when substituted services are provided, and warrants that all terms, conditions, duties, and obligations owed to the shipper by the Rules Tariff Terms, bill of lading, and/or contract will be provided.

The terms and conditions of these Rules Tariff Terms are not applicable to claims by parties who are damaged as a result of a motor vehicle accident and are not a Customer of Nicam's who have no interest in the freight or goods being transported by Nicam's.

Customer by tendering freight to Nicam's certifies that he is familiar with all the terms set forth in the Rules Tariff Terms. The terms of which are hereby agreed to by the Customer