MUTUAL COMMITMENT PROGRAM
MASTER AGREEMENT
Revised July 2015

A. Objective

The objective of the Mutual Commitment Program (MCP, the “Program”) is to enable Union Pacific (UP) and its Intermediary Customers (Customers) to provide reliable intermodal container capacity to Shippers in exchange for a committed level of business from the Shipper. Customers and Shippers who participate in MCP will benefit from the assurance of access to reliable container capacity as well as stable and predictable rail pricing. The purpose of this document is to describe the Program, including the general obligations of and benefits to the participants.

Note: Capitalized terms are defined at the end of this document in Section I.

B. The Agreement

An MCP Agreement (“Agreement”) will be established between UP and the Customer (bi-party agreement), or between UP, the Shipper, and one or more Intermediary Customers (tri-party or multi-party agreement). Each MCP Agreement is defined and documented by this MCP Master Agreement (“Master Agreement”), a Shipper MCP Agreement Term Sheet (“Term Sheet”), and an MCP Price Document which may also serve as the term sheet for bi-party agreements.

The Term Sheet defines the following:

a. The Commitment Term.
b. The annualized volume of business awarded by origin-destination to UP and the Customer(s) by the Shipper during the commitment term (the Award Volume).
c. The ramp-to-ramp or door-to-door rail price (the Base Load Price) for each shipment Lane (provided on the MCP Price Document to Intermediary).
d. A description of the method used for calculating Base Load Volume.
e. Terms defining price and capacity for volume tendered above the Surge Volume Allowance.

UP will publish an MCP Price Document for the Customer to document the prices and Commitment Term. All MCP Price Documents are subject to the terms and conditions of this MCP Master Agreement as well as UP’s Master Intermodal Transportation Agreement (MITA). Any exceptions to terms of this Master Agreement must be in the Term Sheet.
C. Shipment Volume

To establish and maintain an MCP agreement, Union Pacific customers must commit a minimum of two shipments per week per metro origin.

The Customer and Shipper agree to tender to UP the Award Volume for each origin-destination pair as defined in the Term Sheet.

The weekly Base Load Volume will be calculated in the following manner:

a. The average of the actual weekly shipments under the MCP Price Document
b. Baseload is calculated beginning the first full calendar week (Sun-Sat) after the MCP Price Document is published.
c. To allow for start up of new MCP deals, the first four weeks of baseload will equal the awarded volume from that metro origin
d. The Baseload cannot exceed the award.
e. Baseload will cease being calculated during periods of market constraint and the last weekly baseload calculation will continue as the Baseload until the market is unconstrained.

D. Container Capacity

Customer and UP will provide container capacity required to handle Shipper’s Weekly Shipment Volume in the following manner:

a. Customer will first utilize all its internal sources of container capacity including inbound containers, street capacity and street interchanges.
b. To the extent Customer’s internal sources of container capacity are insufficient to meet the Shipper’s requirements, UP will supply Customer with additional container capacity through the REZ-1 container reservation process.
c. Availability of capacity to handle Shipper volume surges may be limited in Constrained Markets. UP will allocate surge capacity based on availability
d. Customer agrees not to provide container capacity to Transactional Shippers before satisfying all Base Load and Surge Volume requirements for Committed Shippers.
E. Pricing

Base Load Prices are applicable for all volume tendered in markets that are not Constrained.

A Volume Surcharge will be added to the Base Load Price for all Weekly Shipment Volume tendered in a Constrained Market above the weekly Base Load Volume plus Surge Volume Allowance.

Volume Surcharge rates in each market will be defined in the Term Sheet. UP and the Customer may agree to defer finalization of Volume Surcharge rates and terms to a later period in order to more accurately reflect market conditions.

F. Reporting

UP will publish weekly performance reports that will be the basis for determining compliance with the terms of this Agreement by all parties. Reports will summarize actual Weekly Shipment Volume by Origin Market and lane compared to Award Volumes, Base Load Volumes, and Surge Volume Allowances. The reports will also be the basis for determining the applicability of any Volume Surcharges. Reports will transition to the REZ 1 website during 2015.

G. Equipment Per Diem

Rates and terms for equipment per diem will be in accordance with the EMP and UMAX container programs.

UP reserves the right to modify equipment per diem during the term of this Agreement.

H. Remedies

UP and Customer will use commercially reasonable efforts to ensure container capacity is provided to meet the Shipper’s Base Load Volume.

The Customer’s sole remedy for non-compliance on the part of UP in satisfying the terms of this Agreement is termination of this Agreement. The Customer should notify UP in writing of its intent to cancel this Agreement due to non-compliance on the part of UP. In no case shall UP or Customer be liable for costs or losses or damages, direct, indirect, special, consequential or punitive that result from delay or interruption of rail services or the lack of equipment or train slots. Neither Customer nor Shipper shall be entitled to specific performance by UP or injunctive relief against UP for failure to perform the terms of the MCP Agreement. The MCP Agreement does not guarantee Customer or any Shipper the availability of track capacity, terminal capacity, locomotives, train crews or railroad equipment, including rail cars, chassis or containers.
UP’s sole remedy in case of non-compliance with the terms of this Agreement on the part of the Customer and/or Shipper will be cancellation of this Agreement. UP will notify Customer in writing if UP intends to terminate this Agreement. Prior to cancellation, UP may in its sole discretion seek to renegotiate the rates and terms of the Agreement. Nothing herein requires UP to seek renegotiation prior to termination.

Customer and/or Shipper will be considered to be in non-compliance with this Agreement if any of the following occur:

a. Customer or Shipper fails to ship at least 80% of the weekly Awarded Volume during any consecutive six-week period during the Commitment Term.

b. Customer or Shipper ships in excess of 120% of the weekly Awarded Volume during any consecutive six-week period during the Commitment Term.

c. Customer or Shipper rebids freight committed to UP under terms of this Agreement.

d. Customer diverts freight committed to UP under terms of this Agreement to another rail service provider, except for reasons of weather, service interruption, force majeure or UP’s failure to provide equipment capacity.

e. Customer does not provide its available container capacity to support the Shipper’s capacity requirements, as defined in this Agreement.

f. Customer tenders Shipper’s volume to UP using Transactional Pricing or a different MCP Price Document not associated with this Agreement.

UP reserves the right to cancel or revise pricing in any individual lane if actual Weekly Shipment Volume is below 80% of the weekly Award Volume or greater than 120% of the weekly Awarded Volume measured over any consecutive six-week period.

I. Definitions:

**Award Volume:** Business that has been awarded and committed to UP by the Customer and Shipper in accordance with the terms of this Agreement. Defined by origin city, destination city and weekly volume.

**Base Load Price:** Ramp-to-ramp or door-to-door price that is applicable for Base Load Volume.

**Base Load Volume:** At the time of the award, Base Load Volume is the average weekly volume that is expected to be tendered to UP on a regular, consistent basis throughout the year in accordance with the terms of this Agreement. For new deals, four weeks after publication, Base Load Volume will be recalculated in accordance with terms of the MCP Agreement Term Sheet. Base Load Volume will cease being calculated during periods of market constraint and the last weekly baseload calculation will continue as the baseload until the market is unconstrained. Weekly Base Load Volume cannot exceed the average weekly award.

**Commitment Term:** The term of an MCP Agreement, generally one year.

**Committed Shipper:** Shipper who is a participant in the MCP Program.
**Constrained Market:** An Origin Market that has been determined by UP to have insufficient container capacity to meet expected demand by both Committed and Transactional Shippers.

**Intermediary Customers (Customers):** Transportation intermediaries including Intermodal Marketing Companies (IMCs), Motor Carriers, Truck Brokers, 3PLs, etc., that are customers of Union Pacific Railroad and/or its subsidiaries including Streamline LLC, that manage intermodal freight transportation on behalf of Shippers.

**Lane:** Refers to an origin-to-destination pair where UP provides ramp-to-ramp or door-to-door intermodal transportation service with origin and destination referring to a metropolitan area.

**MCP Agreement:** A commercial arrangement between Union Pacific, one or more Intermediary Customers and a Shipper that documents an agreement whereby UP and the Customer(s) agree to provide committed rail container capacity and pricing in exchange for a defined volume of committed business from the Shipper. The MCP Agreement is documented by this MCP Master Agreement and an MCP Agreement Term Sheet.

**MCP Agreement Term Sheet:** A document that is associated with an MCP Agreement that defines specific characteristics of an MCP Agreement, including the Commitment Term, Award Volume, Base Load Prices, Surge Volume Allowance rates and terms.

**MITA:** UP’s Master Intermodal Transportation Agreement which can be found on UP’s website at the following link: [http://www.uprr.com/customers/intermodal/mita.shtml](http://www.uprr.com/customers/intermodal/mita.shtml).

**Origin Market:** A city or metropolitan area that is served by one or more UP intermodal terminals that is an origin point for freight transportation. Generally, all UP terminals located in that city or metro area are considered to be part of a single Origin Market.

**Shipper:** Entity or organization utilizing one or more Intermediary Customers to manage and execute intermodal freight transportation on its behalf.

**Surge Volume:** Shipment volume that is tendered to UP during a week from a single Origin Market that is in excess of the Base Load Volume plus Surge Volume Allowance.

**Surge Volume Allowance:** An allowance measured as a percent above the weekly Base Load Volume for which the Base Load Price is valid in a Constrained Market. For example, if the Base Load Volume is 50 loads per week and the Surge Volume Allowance is 10%, then the Surge Volume Allowance is five loads and a total of 55 (50 + 5) loads can be shipped at the Base Load Price in a Constrained Market per week.

**Transactional Shippers:** Shippers who are not participants in the MCP Program or who are shipping freight on UP in lanes that have not been committed to UP through terms of an MCP Agreement.

**Volume Surcharge:** A surcharge that is applied to all volume that is shipped during the week from a Constrained Market that is above the Base Load Volume plus Surge Volume Allowance for that market.

**Weekly Shipment Volume:** Actual volume shipped under this Agreement as measured on a weekly basis.