

MOUNTAIN LINE

CDL COURSE

Facilities Use Agreement

Facilities Use Agreement

This Facilities Use Agreement (“Agreement”) is made and entered into on the final date of execution (“Effective Date”) between the Northern Arizona Intergovernmental Public Transportation Agency, a corporate body and political subdivision of the State of Arizona (“Mountain Line”) and the Applicant (“User”). Mountain Line and User are each a “Party” and sometimes referred to collectively as the “Parties.”

Mountain Line office is located at: 216 W. Phoenix Ave., Flagstaff, Arizona 86001.

For and in consideration of the following promises, covenants and conditions, Mountain Line and User hereby agree as follows:

1. Use of Facility. Mountain Line hereby permits User to use the following premises:

The Commercial Driver’s License training course (the “Facility”) which is located on the campus (“the Campus”) of Northern Arizona State University (the “University”). User may rent either Course A, Course B, or the Entire Facility.

User shall use the Facility for the event or purpose as identified and approved in final written confirmation by Mountain Line (the “Event”). User may use the Facility for the Event only and for no other event or purpose. User acknowledges that use of the Facility is conditioned on User and Mountain Line’s execution of this Agreement and User’s payment of the required Facility Use Fee. User understands and acknowledges that no binding or enforceable agreement regarding use of the Facility shall exist until and unless (1) this Agreement has been signed by both User and Mountain Line and (2) User has paid the required Facility Use Fee.

User acknowledges that Mountain Line has not made any representation or warranty as to the present or future suitability of the Facility for any purpose or use whatsoever except as may be expressly provided in this Agreement. User assumes all risks resulting from any defects (patent or latent) in the Facility.

2. Date and Time of Use. User shall be permitted to use the Facility on the agreed date and time (the “Event Date”) only. Use of the Facility during the requested dates and times is subject to availability of the Facility and written confirmation by Mountain Line.

3. Access and Event Times. The Facility access and use must be within the time specified above. Date and use times include preparation prior to the Event and removal of User’s equipment and other personal property after the completion of the Event.

4. Facility Use Fee. User agrees to pay to Mountain Line a non-refundable Facility Use Fee of \$75/day within seven (7) days of the execution of this Agreement. If the Facility Use Fee is not timely received by Mountain Line, this Agreement shall be automatically void and User shall have no right to use the Facility.

5. Responsible Party/Event Coordinating Deadline. The person(s) who completes and signs this Agreement shall be the Responsible Party. The Responsible Party shall coordinate all Event details with Mountain Line and agrees to complete this coordination no later than seven (7) days prior to the Event Date. The Responsible Party must be available by telephone for the duration of the Event. The Responsible Party must take all reasonable actions to assure event safety, to prevent damage to the Facility, and to see that these conditions and other policies and regulations, as outlined in this Agreement, are met.

User must provide Mountain Line with the name and telephone number of the Responsible Party.

6. User's Obligations.

a. User is responsible for following guidelines contained in the Mountain Line Facility Use Handbook as well as the provisions contained herein.

b. User must not violate, or allow to be violated, any Federal, State, or local law, or rules of Mountain Line, University, or Campus.

c. User must not make any alterations to the Facility. At the end of the Event, the Facility shall be left in a clean, safe condition. User must remove from the Facility all property and materials belonging to User. If User damages the Facility, Mountain Line will have the option of either (i) requiring User, at User's own expense and risk, to restore the Facility to the condition existing prior to the Event, or (ii) itself making the repairs and restorations to the Facility. Mountain Line shall have sole and complete discretion in deciding which option to exercise. If Mountain Line decides to itself make the repairs and restorations to the Facility, the costs for same shall be borne solely by User. User must reimburse Mountain Line for any repairs or restoration necessary to repair damages to the Facility caused by User or the attendees of the Event no later than ten (10) business days after Mountain Line presents User with a written statement or invoice reflecting the nature and costs of the repairs.

d. User must exercise care in the use of the Facility and adjacent Campus areas and must comply with guidelines to reduce excessive wear or damage. User agrees to keep the Facility and adjacent areas on Campus in a clean and orderly condition and to remove all waste material at the conclusion of the Event, unless Mountain Line or University agree, in writing, to be responsible for any cleanup.

e. Specific limitations apply as to the use of tape, marking paint, barricades, signage, and other such materials (collectively, "Assistive Items"). User should consult with Mountain Line for a full overview of allowable Assistive Items to appropriately accommodate User's needs. Assistive Items which cause damage or additional cleaning requirements will result in additional charges to User. All Assistive Items must be removed by User immediately following the Event.

f. "Hazardous substances" include any substance that (a) is or contains asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum or petroleum-derived substances or wastes, radon gas, or related materials, (b) requires investigation, removal or remediation or for which there are restrictions, regulations or rules pursuant to any Environmental Law regarding its use, handling or disposal, under any Environmental Law, or is

defined, listed, or identified as a “hazardous waste,” “Hazardous Substance,” “contaminant,” “toxic substance,” “toxic material,” “pollutant,” or “hazardous substance,” thereunder, or (c) is toxic, explosive, corrosive, flammable, infectious, radiologically contaminated, carcinogenic, mutagenic, or otherwise hazardous and is regulated by any governmental authority or Environmental Law.. User will not dispose of, generate, manufacture, process, produce, release, store, transport, treat, or use, nor will it permit the disposal, generation, manufacture, presence, processing, production, release, storage, transportation, treatment, or use of Hazardous Substances on, under, or about the Facility in violation of applicable environmental regulations and laws. User agrees that it will (a) comply with, and cause all of its agents, employees, and contractors to comply with, all environmental regulations and laws; (b) obtain and maintain or cause to be obtained and maintained all permits, licenses, and approvals required under applicable environmental regulations and laws relating to Hazardous Substances; and (c) comply with all conditions and requirements of such permits, licenses, and approvals.

7. **User’s Property.** Neither Mountain Line nor University insure the personal property of User or its employees, agents, guests or attendees against damage or loss by any means. User assumes the risk of any such damage or loss.

8. **No Assignment or Subletting.** This Agreement is non-assignable and non-transferable.

9. **Right to Enter.** Mountain Line reserves the right to enter and inspect the Facility at any time for any purpose during the Event. User must follow all directives from Mountain Line staff.

10. **Indemnification and Hold Harmless.** User agrees to hold harmless, defend and indemnify Mountain Line, the State of Arizona, ABOR, the University, and their employees, officers, directors, board members, volunteers and agents (collectively, the “ML Parties”) from and against any and all liability, loss, damage, expense, and costs (including without limitation costs, attorney’s fees, and fees of litigation) of every nature arising out of, or in connection with, or relating to User’s use of the Facility or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage caused by the sole negligence or willful misconduct of Mountain Line.

11. **Insurance Requirements.**

a. **Liability Insurance.** At all times during use of the Facility, User must purchase, maintain, and keep in effect insurance against claims for personal injuries (including death) or property damage, under a policy of commercial general liability insurance, such that the total available limits will not be less than \$1,000,000 per occurrence and \$2,000,000 aggregate, which may be satisfied by any combination of primary, secondary, and other coverages, naming Mountain Line, the State of Arizona, ABOR, Northern Arizona University and their regents, officers, officials, agents, employees and volunteers as additional insureds. The coverage afforded each additional insured must be primary and must apply to loss prior to any coverage carried by Mountain Line or University. Any insurance or self-insurance maintained by Mountain Line, the State of Arizona, ABOR, Northern Arizona University and their regents, officers, officials, agents, employees and volunteers shall be in excess of User’s commercial general liability insurance

coverage and shall not contribute with it. Certificates of insurance must include a copy of the endorsement evidencing additional insured status. The policy must include coverage for:

Bodily injury
Broad form property damage (including completed operations)
Personal injury
Blanket contractual liability

In the event that the general liability insurance coverage is written on a “claims made” basis, coverage must extend for two (2) years past expiration or termination of this Lease.

b. Workers’ Compensation Insurance. At all times during use of the Facility, User must purchase, maintain, and keep in effect workers compensation and employers liability insurance as required by the State of Arizona Workers Compensation statutes as follows:

Workers Compensation (Coverage A)	Statutory Arizona benefits
Employers Liability (Coverage B)	\$500,000 each accident
\$500,000 each employee/disease	
\$1,000,000 policy limit/disease	

This policy must include endorsement for All State coverage for state of hire.

c. Automobile Liability Insurance. At all times during the Term, User must purchase, maintain, and keep in effect business automobile liability insurance, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, with Insurance Service Office, Inc. Declarations must include owned, non-owned and hired motor vehicles, and must be applicable to claims arising from bodily injury or death or property damage arising out of the ownership, maintenance or use of any automobile. The policy must be endorsed to add Mountain Line, State of Arizona, ABOR, Northern Arizona University and their regents, officers, officials, agents, employees or volunteers as additional insureds and must stipulate that the insurance shall be primary, and that any self-insurance or other insurance carried by Mountain Line, State of Arizona, ABOR, Northern Arizona University or any of their regents, officers, officials, agents, employees or volunteers shall be excess and not contributory to the insurance provided by Tenant.

d. Other Insurance Provisions. The general liability policy must contain, or must be endorsed to contain, the following provisions:

1. The ML Parties are to be covered as additional insureds with respect to liability arising out of the use of the Facility, including work or operations performed by or on behalf of User and materials, parts or equipment furnished in connection with such work or operations.

2. For claims of liability arising out of this Agreement and User’s use of the Facility, User’s insurance coverage must be primary insurance with

respect to Mountain Line and University, and any insurance or self-insurance maintained by Mountain Line or University shall be excess of User's insurance and shall not contribute with it.

3. User's insurer agrees to waive all rights of subrogation against Mountain Line and University for losses paid under the terms of any policy covering the use of the Facility or any activities of User, its guests, agents, representatives, employees or subcontractors.

e. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Mountain Line.

f. **Verification of Coverage.** User must furnish Mountain Line with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements must be actually received by Mountain Line the sooner of: (i) seven (7) days after execution of this Agreement, or (ii) seven (7) days prior to the Event Date. If the certificates and endorsements are not timely delivered to and received by Mountain Line, this Agreement shall be automatically and immediately void and User will have no right to use the Facility. Mountain Line may, in its sole discretion, decide not to approve or accept User's insurance coverage, in which event this Agreement shall be automatically and immediately void and User will have no right to use the Facility.

g. **Right to Modify.** Mountain Line reserves the right to modify these insurance requirements at any time without any advance notice, including limits based on the nature of the risk, prior experience, prior events, insurer, coverage, or other special circumstances.

12. **Additional Conditions of Use.**

a. **No Weapons/Firearms.** All weapons and firearms are strictly prohibited at the Facility and on Campus.

b. **Vehicle Parking/Unloading.** User and its guests must abide by all Mountain Line parking/traffic requirements, including but not limited to passenger and equipment loading and unloading regulations, observance of authorized parking locations, payment of required fees, and display of vehicle parking permits. Payments of citations which result from parking/traffic violations are the sole responsibility of User and its guests.

c. **No Smoking.** Smoking is prohibited in the Facility.

d. **Unsupervised Minors.** Unsupervised minors (persons under the age of 18) are not permitted at User's Event(s).

e. **Animals.** Except for animals certified to assist disabled persons, animals are prohibited at the Facility.

f. **Conduct.** User and guests must not interfere with the regular use of the Facility by the public or other facility guests. Excessive noise or other disruptive behavior is prohibited.

g. **Publicity/Advertising.** All forms of Advertising and Publicity must be submitted to Mountain Line for approval seven (7) days in advance of posting or communication. When the Mountain Line name is used in conjunction with publicity, inclusion of non-endorsement statements may be required, as solely determined by Mountain Line. Use of Mountain Line logos, trademarks, and similar representations are strictly prohibited.

13. Termination/Cancellation and Reassignment of Facilities.

a. Should the Facility become unavailable due to an emergency, Mountain Line reserves the right to reschedule User to another date once the Facility becomes available.

b. In the event User cannot use the Facility as planned on the Event Date, User may contact Mountain Line to attempt to move the Event Date. Mountain Line will use commercially reasonable efforts to reschedule User, but is under no obligation to cancel other events or reschedule other users in an effort to reschedule User's Event Date.

c. Mountain Line reserves the right to cancel this Agreement for any reason or for no reason at all.

d. This Agreement to use the Facility is granted subject to observance of regulations. Mountain Line may revoke this Agreement effective immediately upon User's failure to timely comply with any pre-Event requirement, for any violation of use conditions or regulations required by Mountain Line or any governmental agency, or at any time for misrepresentation. Mountain Line may terminate any part of this Agreement without notice in the event of an emergency which, in the opinion and sole discretion of Mountain Line, would make the Event unfeasible. Refunds of the Facility Use Fee or any other payments made will be determined at the discretion of Mountain Line, on a case by case basis.

14. Modification of this Agreement. This Agreement contains the entire agreement and any modifications, changes or amendments to this Agreement must be written and signed by all the Parties to this Agreement.