

## LEASE

THIS LEASE AGREEMENT is executed February \_\_\_, 2005, to be effective as of the time provided in Section 3 below, between Minnesota Transportation Museum, Inc., 193 East Pennsylvania Avenue, St. Paul, Minnesota 55101-4319 (the "Lessor") and Minnesota Streetcar Museum, Inc., 155 Chaparral Drive, Apple Valley, Minnesota 55124 (the "Lessee").

1. **Lease.** The Lessor hereby agrees to lease to the Lessee and the Lessee hereby agrees to lease from the Lessor, effective as of the time provided in Section 3 below, the property described in Schedule "A" (the "Property"), including specifically the streetcar exhibits located at sites near Lake Harriet in Minneapolis, Minnesota and near Lake Minnetonka in Excelsior, Minnesota (the "Exhibits"). All property described in Schedule "A" and to be leased by Lessor to Lessee pursuant to this Lease is without warranty at the commencement of the lease term and is accepted by Lessee on a strictly "as is," "where is" basis. It is the intention of the parties that all Property subject to purchase by Lessee pursuant to the Purchase Agreement executed February \_\_\_, 2005 between the parties shall be included as the Property hereunder.

2. **Rental and Operating Expenses.** The Lessee shall pay to the Lessor Annual Base Rent of One Dollar (\$1.00) annually. Lessee shall in addition pay all expenses of operating and maintaining the Exhibits and the Property, including without limitation, any wages, employee benefits, payroll taxes, workers' compensation insurance, fuel, supplies, parts, rent, license and permit fees, grounds maintenance, repairs and upkeep, taxes, insurance, interest, and general administration costs.

3. **Term.** The term of this Lease shall commence effective as of the date on which all required written consents have been obtained by the Lessor from the Minneapolis Park and Recreation Board, the City of Minneapolis, the Hennepin County Regional Railroad Authority,

Excelsior Financial Properties, Inc., and from any other necessary governmental authorities or private parties in connection with the leases and permits for real property rights and interests described in Schedule A. The Lessor and the Lessee agree to use reasonable efforts to obtain such consents. If such consents have not been obtained on or before November 15, 2005, this Lease shall not become effective and neither Lessor nor Lessee shall have any further obligation to the other hereunder. If and when such consents have all been obtained, this Lease shall become effective for a term running through the date upon which the parties close the sale of the Property in accordance with the Purchase Agreement referenced in paragraph 1, subject only to the period of suspension with respect to the track rebuilding and extension by Lessor on the Como-Harriet Streetcar Line described in Section 22 below.

4. ***Title.*** This Agreement creates a bailment only. The Lessor shall maintain ownership of the Property until a sale closing is completed. If the sale closing does not occur, for any reason, Lessee shall return possession of the Property to Lessor in good repair, condition and working order (ordinary wear and tear resulting from proper use thereof alone excepted).

5. ***Termination.***

- (a) This agreement shall continue until terminated in accordance with this paragraph. The Lessee may terminate this agreement, at Lessee's sole option, only if Lessor materially breaches this Agreement or the Purchase Agreement referred to in paragraph 1, and said default is not cured after 60 days advance written notice. The Lessor may terminate this Agreement, at Lessor's sole option, only if Lessee materially breaches this Agreement or the Purchase Agreement referred to in paragraph 1, and said default is not cured after 60 days advance written notice. In the event this Agreement is terminated by either Lessor or Lessee, it shall be lawful for the Lessor to enter the premises where the Exhibits and other Property may be located and retake possession of the Exhibits and other Property.
- (b) This agreement may be modified or terminated in accordance with a separate written agreement, executed by both parties to this Lease.

6. ***Maintenance and Repairs.***

- (a) The Lessee, at its own expense, shall maintain the Exhibits and the Property in good repair, mechanical condition, and running order. The Lessee shall perform all preventative maintenance requirements. Lessee shall make no material alterations, modifications, additions, or improvements to the Property, nor remove any equipment or parts from the Property, without the prior written consent of Lessor.
- (b) The Lessee shall be responsible for the cost of all parts and labor required in maintaining the Exhibits and the Property, including storage costs, to the extent necessary to maintain the Property in good condition.
- (c) The Lessee shall allow the Lessor unrestricted access to the Exhibits in order to inspect and insure that the Lessee is properly maintaining the Exhibits and the Property, provided only that Lessor's inspections shall be undertaken in a manner that will minimize disruption of Lessee's normal operating activities.
- (d) Lessee shall be responsible for protecting the Exhibits against the elements, for transport, and placement into winter storage.

7. ***Insurance; Risk of Loss.***

- (a) The Lessee shall carry and maintain at its own expense, insurance unconditionally covering liability for personal injury or property damage resulting from the operation of the Exhibits in the full amount required by local government authorities, and not less than full insurable value for replacement cost of the Property. The named insureds on said policy shall be the Lessor and Lessee. All named insureds shall be given written confirmation of insurance coverage at least annually, and at any time upon reasonable request.
- (b) The Lessee and the Lessor, their agents or employees, shall comply with all of the terms and conditions of the policies of insurance, including the immediate reporting of all accidents to the Lessor and the insurer, and do all things necessary or proper to protect or preserve the other party's rights as a named insured in such policies. All policies covering the Exhibits shall be endorsed to protect, as their interest may appear, both the Lessee and the Lessor.
- (c) Lessee hereby assumes and shall bear the entire risk of loss, damage, theft, and destruction with respect to the Property from any and every cause whatsoever (except normal wear and tear resulting from proper use)

during the period of this Lease. Any insurance proceeds received by Lessor with respect to any such loss shall be credited to Lessee's obligation under this paragraph and Lessor shall be entitled to any surplus.

9. ***Licenses.*** The Lessee shall provide and maintain at its own expense, all necessary operating licenses, permits, certifications and approvals to operate the Exhibits.

10. ***Drivers and Use.***

- (a) The Lessee shall permit only safe, careful, licensed personnel, to operate the Property. The Lessee shall, upon written complaint from the Lessor specifying damage to any of the Property, or any indication of any other incompetence by or of any driver or operator, immediately take such action as is necessary to correct said incompetence.
- (b) The Property shall not be used in violation of any federal, state, or municipal statutes, laws, ordinances, rules, or regulations, or contrary to the provisions of any applicable insurance policy, and the Lessee shall indemnify and hold the Lessor harmless from any and all fines, forfeitures, damages, or penalties resulting from violation of such laws, ordinances, rules, or regulations.

11. ***Assignment.*** Neither this agreement, nor any interest created hereby, may be assigned by the Lessee or Lessor without the written consent of the other party. Lessee shall not sublease any portion of the Exhibits nor allow the Exhibits or the Property to be used by any party other than Lessee without the prior written consent of Lessor.

12. ***Storage and Facilities.*** Lessee agrees to store the Property in the carbarns and other shelter facilities leased hereunder whenever the Exhibits are not being regularly operated. Said carbarns and other shelter facilities shall be kept and maintained in good condition. Lessee shall under no circumstances move the Property to any other location, for any reason, without the prior written consent of Lessor. The sites on which the Exhibits are located shall be kept and maintained in good condition by Lessee during the lease term, and in compliance with the leases for such sites.

13. **Indemnification.** Lessee hereby agrees to indemnify, defend and hold Lessor and Lessor's directors, officers, members, employees, volunteers, agents and representatives harmless from any and all claims, demands, actions, suits, proceedings, costs, expenses, damages, and liabilities (including attorneys' fees and costs of litigation) arising from Lessee's operation of the Exhibits or use of the Property during the term of this Lease. Lessee's obligations under this paragraph shall survive the termination of this Lease.

14. **Lessee Status.** Lessee warrants and represents to Lessor that Lessee is validly formed and in good standing as a Minnesota nonprofit corporation and, as of the date this Lease is executed, has applied to the Internal Revenue Service for recognition of tax-exempt status as an organization described in Section 501(c)(3) of the Internal Revenue Code.

15. **Entire Agreement.** This agreement supercedes all operating or lease agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements between them, except the Purchase Agreement referred to in paragraph 1, which remains in effect in all particulars, and the terms of which the parties hereto expressly ratify. Lessor hereunder acknowledges that Lessee is entering into this Lease Agreement in reliance upon said Purchase Agreement.

16. **Notices.** All notices or other documents under this agreement shall be in writing and delivered personally or mailed, postage prepaid, addressed to the parties at their last known addresses.

17. **Non Waiver.** No delay or failure by either party to exercise any right under this agreement and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

18. **Headings.** Headings in this agreement are for convenience only and shall not be used to interpret or construe its provisions.

19. **Governing Law.** This agreement shall be construed in accordance with and governed by the laws of the State of Minnesota.

20. **Counterparts.** This agreement may be executed in two or more counterparts, each which shall be deemed an original but all of which together shall constitute one in the same instrument.

21. **Binding Effect.** The provisions of this agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

22. **TEA-21 Project.** Lessor anticipates that it will undertake a TEA-21 track rebuilding and extension project at the Como-Harriet Streetcar Line sometime during 2005 (the "TEA-21 Project"), working with state and federal government agencies which are funding and regulating the TEA-21 Project. The TEA-21 Project is estimated to take approximately 60 days to complete after work commences. Notwithstanding any provisions in this Lease to the contrary, this Lease shall be suspended with respect to the Como-Harriet Streetcar Line during the period that work is being undertaken by Lessor on the TEA-21 Project and possession of the site of the Como-Harriet Streetcar Line shall be returned to Lessee following completion of the TEA-21 Project. Lessor shall give reasonable notice to Lessee when the TEA-21 Project work is to begin and Lessee shall deliver possession of the Como-Harriet Streetcar Line to Lessor for the TEA-21 Project and shall otherwise cooperate with and assist Lessor in completing the TEA-21 Project in compliance with all requirements of the funding authorities.

IN WITNESS WHEREOF the parties have executed this agreement by their duly authorized representatives.

**Minnesota Transportation Museum, Inc.**

**Minnesota Streetcar Museum, Inc.**

**By:** \_\_\_\_\_  
**Its:**

**By:** \_\_\_\_\_  
**Its:**

**SCHEDULE "A"**  
**TO LEASE AGREEMENT**  
**DESCRIPTION OF PROPERTY**

Awards, recognitions, plaques, letters of commendation issued on account of Como-Harriet Streetcar Line and items of rolling stock between 1962 and 2005.

All paper records, files, correspondence, plans, maps, surveys, sketches and other documentation pertaining to the development of the Como-Harriet Streetcar Line and the Excelsior Streetcar Line originated between 1962 and 2005.

The following specific items and categories of items:

<b><u>Location &amp; Asset</u></b>	<b><u>Year Built or Acquired</u></b>	<b><u>Estimated or Insured Value</u></b>
<b>Como-Harriet Streetcar Line, Minneapolis, MN</b>		
Carbarn and all contents	1971-1997	\$176,800
Storage building and all contents	1971	10,400
Linden Hills Station and all contents	1991	46,800
<b>Excelsior Streetcar Line, Excelsior, MN</b>		
Carbarn and all contents	1998	\$364,000
<b>Historic Rolling Stock</b>		
Twin City Lines Streetcar No. 1300	1962	\$100,000
“ “ “ “ No. 322	1990	100,000
“ “ “ “ No. 1239	1988	100,000
Duluth Street Ry. Streetcar No. 265	1973	100,000
“ “ “ “ No. 78	1971	100,000
Winona Streetcar No. 10	1999	10,000
Mesaba Railway Car No. 10	1977	10,000
Fargo & Moorhead Car No. 28	2003	1,000
<b>Miscellaneous</b>		
TCRT 1938 Ford line truck	1980	10,000
Unpowered trucks (2) CTA	1975	10,000
Baldwin suburban trucks (4)	1997	60,000
Electric section car MW1 (CHSL)	1980	3,000
Gasoline section car (ESL)	1980	5,000
Tower car (CHSL)	1974	1,000
Tower car (ESL)	2003	2,000
Work flatcar (CHSL)		1,000
Work flatcar (CHSL)		1,000
Low floor work flatcar (CHSL)		1,000



Work flatcar (ESL)	2003	1,000
PCC motor-generator set	2002	1,000
Streetcar controller K-35 (2)	1990	15,000
Streetcar controller K-10 (2)	2002	15,000
GE streetcar air compressors (3)	1985-2005	15,000
Streetcar resistor grids	1980-2003	15,000
Mitsubishi 60hp motors (2)	1995	10,000
Brill Model 21-E truck, 2 motors	2000	15,000
Shop air compressor (CHSL)	1972	1,000
Engine lathe (CHSL)	1980	1,000
Drill press (CHSL)	1980	1,000
Power hacksaw, DOALL (CHSL)	1980	1,000
HMT Mill	1980	1,000
Miscel. Spare parts (CHSL & ESL)	1971-2005	20,000
Miscel. Hand tools “ “	1971-2005	5,000
Miscel. Power tools “ “	1971-2005	5,000
Miscel. Wire maint. tools (CHSL/ESL)	1971-2005	3,000
Miscel. Track maint. Tools “ “	1971-2005	3,000
Miscel. Garden/grounds maint.tools “ “	1971-2005	5,000
34-inch streetcar wheels (20 count)	1975	10,000
Streetcar and boat photo collection (8000+)	1962-2005	Unk.
Track, fittings, ties (CHSL & ESL)	1971-2005	30,000
Trolley wire, poles, fittings “ “	1970-2005	30,000
Historic documents, books, artifacts	1971-2005	Unk.
Patterns for brake shoes	2003	5,000
Patterns for miscel. Streetcar parts	2001-2005	15,000
Merchandise stock	2000-2005	15,000
Linden Hills station displays, cases, Fittings, cash register, video equipt.	1991-2004	10,000
Spare railroad ties (1,700 count)	1994	42,500
Switch ties	1990	5,000

Land leases, agreements, diagrams, maps, permits issued by or with and rights granted under ordinances of the City of Minneapolis and the Minneapolis Parks and Recreation Board pertaining to the placement of maintenance and storage buildings, track, bridges, overhead electrification, depots, street and pedestrian crossings, stairways, sidewalks, pathways, signs, boarding platforms, underground utility installations all related to the Como-Harriet Streetcar Line historic site located in the City of Minneapolis, Minnesota.

Land leases, agreements, diagrams, maps, permits issued by or with and rights granted under ordinances of the City of Excelsior and the Hennepin County Regional Railroad Authority pertaining to the placement of maintenance and storage buildings, track, bridges, overhead electrification, depots, boarding platforms, street and pedestrian crossings, stairways, sidewalks, pathways, signs, underground utility installations all related to the Excelsior Streetcar Line located in the City of Excelsior, Minnesota.