ELECTRIC VEHICLE CHARGING STATION
PLACEMENT AGREEMENT

THIS ELECTRIC VEHICLE CHARGING STATION PLACEMENT AGREEMENT (this “Agreement”) is made and entered into this __ day of ___, 2014 by and between GREEN MOUNTAIN POWER CORPORATION, a Vermont corporation (“GMP”), and TOWN OF MIDDLEBURY, its successors or assigns (“Customer”).

WHEREAS, GMP and Customer desire to enter into this Agreement to install, operate and maintain an electric vehicle charging station to be available to the public (the “Charging Station”) and to be located at Customer’s property located at Mill Street Municipal Parking Lot, Mill Street, Middlebury, Vermont (the “Property”).

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, GMP and Customer hereby agree as follows:

1. This Agreement is contingent on the execution of a grant agreement between Customer and the State of Vermont confirming the terms of a grant awarded to Customer through the 2014 Electric Vehicle Charging Stations Grant provided by a partnership between the Department of Environmental Conservation Air Quality and Climate Division and The Agency of Commerce and Community Development, Department of Housing and Community Development (the “Grant”). GMP and Customer agree to cooperate to make reasonable modifications to this Agreement to the extent necessary to comply with the terms of the grant agreement.

2. The initial term of this Agreement shall be five years from the date of installation of the Charging Station (the “Initial Term”). Upon the expiration of the Initial Term, this Agreement shall automatically renew for successive one year periods unless and until terminated by either party pursuant to the terms hereof (any such renewal terms together with the Initial Term, the “Term”).

3. Customer hereby grants GMP the exclusive right to install, operate and maintain the Charging Station at the Property. The Charging Station shall be substantially similar to the Charging Station described in Exhibit A attached hereto.

4. The exact location of the Charging Station at the Property shall be mutually agreed to between the parties within the Property (such actual location, the “Site Location”). The Site Location shall provide unrestricted and unobstructed access to the Charging Station as is necessary for (i) charging of an electric vehicle by any electric vehicle owner or operator 24 hours a day and seven days a week, and (ii) maintenance and repair of the Charging Station by GMP or its representatives. The parties may designate a new Site Location and move the Charging Station to such new location by mutual agreement.

5. At the time of initial installation, all civil and electrical needs for two (2) chargers shall be completed. Both parties recognize the Charging Station shall consist of one (1) Level 2 charger and one (1) Level 3 charger. However, the one (1) Level 3 charger shall not be installed until such time as the “demand charge” associated with Level 3 chargers is eliminated through
the tariff revision process associated with the State of Vermont Public Service Board. GMP shall store, at its discretion and in its facilities, the Level 3 charger until resolution of the demand charge. Upon receipt of a revised tariff allowing for elimination of the demand charge, GMP shall install, at its own expense, the Level 3 charger within a reasonable period of time.

6. Each party shall, at its option, have the right to publicly advertise the availability of the Charging Station. Each party shall further, at its option, have the right to install appropriate signage at the Property and the Site Location within the allowances provided by the Middlebury Zoning and Subdivision Regulations. Any and all such advertisements shall be approved by the other party prior to use by such party, such approval not to be unreasonably withheld, conditioned or delayed. Any and all signage shall be approved by the other party prior to use by such party.

7. Customer agrees not to restrict public access to the Charging Station, except in cases of emergency or technical malfunction, such that the regular operating hours of the Charging Station will be 24 hours a day, seven days a week during the Term of this Agreement.

8. Customer shall obtain any and all necessary federal, state or municipal licenses, permits and/or approvals for the installation and operation of the Charging Station, including any Customer signage and advertising pursuant to Section 4 above.

9. Following receipt of all necessary consents detailed in this Agreement, GMP shall arrange and pay for the installation of the Charging Station upon reasonable advance notice to Customer. Following installation of the Charging Station, Customer shall reimburse GMP for the costs of such installation up to the amount designated for installation (i.e., $75% of the cost of the project) in the Customer grant received through the 2014 Electric Vehicle Charging Stations Grant provided by a partnership between the Department of Environmental Conservation Air Quality and Climate Division and The Agency of Commerce and Community Development, Department of Housing and Community Development. Any additional costs of installation, above and beyond the grant amount of $75% of the cost of the project, shall be the sole responsibility of GMP. GMP shall be solely responsible for the installation of an electric meter and all wiring and other equipment necessary to complete the interconnection of the Charging Station with GMP’s distribution system. Upon completion of the installation, GMP shall provide notice to Customer of the date of completion so that the parties are on notice as to the starting date of the term of this Agreement.

10. GMP will be solely responsible for all necessary servicing and repair of the Charging Station and will make all reasonable efforts necessary to keep the Charging Station online and in good working condition. In the event of any Charging Station failure, damage, or other problem requiring repair, replacement, adjustment or maintenance, Customer shall notify GMP or a person designated by GMP within twenty-four (24) hours of first becoming aware of such failure or problem. Customer will not permit anyone, other than an authorized representative or designee of GMP to perform any service or repair work on the Charging Station without GMP’s prior written approval. GMP or its representatives shall at any reasonable time and at all times during business hours have the right to enter into and upon the Site Location for the purpose of inspecting, repairing, maintaining, or upgrading the Charging Station and
observing its use. Customer shall keep the Site Location clean and shall maintain the space surrounding the Charging Station in a safe, neat and orderly condition.

11. During the Term of this Agreement, Customer shall pay GMP pursuant to Customer’s current rate schedule for all electricity used by electric vehicle owners and operators at the Charging Station. Customer may, at its option, either make the Charging Station available for free public use or may pass on all or a portion of the cost of the electricity to the users in the form of user fees, convenience fees or other fees for using the Charging Station; provided, however, that Customer agrees at all times during the Term to comply with any and all regulatory requirements in connection with the Charging Station, including without limitation, any future tariff or rate schedule of GMP. It shall be Customer’s responsibility to implement a payment system capable of facilitating the user payments.

12. The Charging Station shall remain at all times the personal property of GMP. GMP may, at its option, during or after the Term of this Agreement sell the Charging Station to Customer at a price to be mutually agreed to between the parties. GMP shall insure the Charging Station against loss, theft, damage, or destruction in an amount not less than the full replacement value of the Charging Station, and shall throughout the Term of this Agreement maintain its customary commercial liability insurance coverage.

13. Customer represents and warrants that it is the owner of the Property or that it holds a lease or option to renew the lease for the Property of equal or greater length than the Initial Term of this Agreement.

In the event Customer transfers the Property, Customer shall notify GMP not less than thirty days prior to any such event.

14. Except to the extent arising out of or related to the negligence or willful misconduct of Customer, its agents, employees or servants, GMP shall indemnify Customer and hold it harmless from and against any and all damages, liabilities and expenses incurred in connection with loss of life, personal injury and/or damage to property arising out of the Charging Station or any part thereof, of occasioned wholly or in part by any act or omission of GMP, its agents, employees or servants.

15. Either party may terminate this Agreement, effective thirty days after giving written notice of intent to terminate, upon the occurrence of a material breach provided that such breach continues for thirty days after notice of such breach.

16. All notices hereunder shall be in writing and shall be deemed given upon personal delivery or upon deposit in the United States mail, first class postage fully prepaid, return receipt requested, addressed to GMP and Customer at their respective addresses as listed below. Any party may change its address for notice in accordance with the terms of this section.

If to GMP:

Green Mountain Power Corporation
163 Acorn Lane
Colchester, Vermont 05446
Attention: Rebecca Towne
(802) 655-8428

If to Customer:

Town of Middlebury
94 Main Street
Middlebury, Vermont 05753
Attn: Kathleen Ramsay, Town Manager
802-388-8100 x201

17. If suit or action is instituted to enforce or interpret any of the terms of this Agreement, the substantially prevailing party shall be entitled to recover from the other party, in addition to costs, such sums as the court may adjudge reasonable for legal fees.

18. CUSTOMER UNDERSTANDS AND AGREES THAT GMP MAKES NO WARRANTY, EXPRESS, IMPLIED OR STATUTORY, AS TO ANY MATTER WHATSOEVER, INCLUDING THE CONDITION OF THE CHARGING STATION, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

19. NEITHER PARTY SHALL IN ANY EVENT BE RESPONSIBLE TO THE OTHER PARTY FOR ANY LOST PROFITS OR INCIDENTAL, CONSEQUENTIAL SPECIAL OR INDIRECT DAMAGES.

20. Neither party will be liable for failure to perform its obligations under this Agreement if such failure is due to acts or events beyond such party’s reasonable control.

21. Neither party may assign or dispose of any of its rights or obligations under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld, conditioned or delayed. This Agreement is binding on the successors and permitted assigns of the parties.

22. A waiver by either party of a breach of any provision of this Agreement shall not constitute a waiver of that party’s rights to otherwise demand strict compliance with this Agreement and any and all provisions hereof.

23. This Agreement, including any schedule or exhibit attached hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof. There are no other promises, representations, terms, conditions or obligations other than those contained herein. This agreement supersedes all prior communications, representations or agreements, oral or written, between the parties and shall not be modified except in writing signed by both parties.
24. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Vermont, without giving effect to principles of conflicts of laws that would require the application of any other law.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]
IN WITNESS WHEREOF, the undersigned duly authorized representatives of the parties have executed this Agreement as of the date first written above.

GREEN MOUNTAIN POWER CORPORATION

By: ______________________________
   Name: Rebecca Towne
   Title: Chief Talent Officer and Duly Authorized Agent

TOWN OF MIDDLEBURY

By: ______________________________
   Name: Kathleen Ramsay
   Title: Town Manager and Duly Authorized Agent