

LICENSE AGREEMENT FOR SIGN
WITH PATAGONIA BURLINGTON
2013-2014 SEASON

This LICENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter CITY) and THE SKI RACK, INC. d/b/a PATAGONIA BURLINGTON, a commercial establishment located at 157 Bank Street, Burlington, Vermont (hereinafter PATAGONIA or LICENSEE).

WHEREAS, the CITY owns property, including the street and sidewalk right-of-way adjacent to 157 Bank Street.; and

WHEREAS, PATAGONIA stated on its application (attached hereto as Exhibit A) that it wishes to maintain a sign on the building overhanging the public right-of-way directly in front of 157 Bank Street as shown in the attached photo (hereinafter "sign"); and

WHEREAS, PATAGONIA has stated in its permit application that there are no physical barriers around the sign and it will cover a 4 sq. ft. area; and

WHEREAS, this application was reviewed and approved by the Department of Public Works attached hereto as Exhibit B; and

WHEREAS, such use of a public thoroughfare for periods in excess of 30 days requires approval of the City Council under Charter Sec. 48XLIX and Burlington Code of Ordinances Chap. 27, Sec. 27-32;

W I T N E S S E T H :

The CITY and PATAGONIA enter into the following License Agreement:

1. TERM

The CITY grants to PATAGONIA (hereinafter LICENSEE) a license to maintain a sign extending over the public right-of-way adjacent to 157 Bank Street covering an area of 4

sq. ft. for a term commencing as of the date of execution of this Agreement and terminating on April 30, 2014 or sooner as provided herein.

2. LOCATIONS

LICENSEE may use and maintain a sign extending over the public right-of-way (hereinafter referred to as the premises) for advertising purposes. The sign is to be attached to the building and it must be exactly as described and placed as approved by the Department of Public Works. A copy of the approved plan is attached hereto as Exhibit C.

3. MAINTENANCE

- a. LICENSEE shall maintain the sign in proper condition.
- b. LICENSEE shall be responsible for the maintenance and upkeep of the sign and any damage to the sign is solely the responsibility of LICENSEE. Should LICENSEE fail to maintain the sign, this License Agreement is revocable on notice by the CITY to LICENSEE of a violation of this section; however LICENSEE shall have 14 days to cure any problem if it notifies the CITY in writing within three (3) days of its intent to cure the violation.
- c. The sign shall be placed in accordance with all conditions set by the Department of Public Works and shall not impede the CITY'S ability to maintain the road, sidewalk, parking meters or greenbelt.
- d. The sign shall not cause an obstruction or inconvenience to members of the public using the sidewalk, parking meters or street.
- e. LICENSEE shall pick up and sweep debris created by its use of the public right-of-way.

4. LICENSE FEE

There shall be a fee for this license equal to the encumbrance application fee and the square foot use fee. This fee shall be payable immediately to the Burlington City Clerk's Office. **Failure to pay the annual fee shall result in the immediate revocation of the license.**

5. REVOCATION

This License Agreement is immediately revocable should LICENSEE discontinue use of the sign. In any event, this Agreement is revocable by the CITY within 30 days upon sending written notice to LICENSEE. Upon revocation, LICENSEE must remove at its own expense the sign and other materials or obstructions placed on the property. If LICENSEE refuses to promptly remove such obstructions, they may be removed by the CITY and LICENSEE shall be liable for all expenses of such removal.

6. INSURANCE

a. LICENSEE shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Agreement in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The CITY shall be named as an additional insured on such insurance policy.

b. Prior to execution of this Agreement, LICENSEE shall furnish the CITY with a certificate of insurance and endorsement which shall include the provision that the CITY is named as an additional insured and shall be given 15 days written notification prior to cancellation of such insurance for nonpayment of premium and 45 days notice for any other reason. The certificate shall be attached to this Agreement as Exhibit D and the endorsement shall be attached as Exhibit E.

c. The certificate of insurance shall be provided annually on or before its stated expiration. It is the responsibility of LICENSEE to ensure that a current certificate of insurance is on file with the CITY at all times. **Failure to furnish a current certificate of insurance will result in immediate revocation of this license.**

7. INDEMNIFICATION

LICENSEE agrees to indemnify, defend and hold the CITY harmless and free from liability arising out of LICENSEE'S use of the CITY'S right-of-way, and LICENSEE agrees to make no claim against the CITY or any of its officers, employees, agents or representatives for any loss or damage caused by the CITY'S use or maintenance of its right-of-way.

8. PERMITS

LICENSEE shall be responsible for obtaining all necessary CITY and/or State permits including zoning permits, prior to placement of the sign.

9. NUISANCES PROHIBITED

LICENSEE shall not, during the term hereof, on or in the premises maintain, commit, or permit the maintenance or commission of any nuisance or violation of any applicable City of Burlington ordinance, State or Federal statute, or controlling bylaw, regulation, or condition

imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

10. ASSIGNMENT OF RIGHTS

LICENSEE shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate LICENSEE'S rights pursuant to this Agreement.

11. LIMITATION OF RIGHTS

LICENSEE acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement.

12. This License Agreement supersedes all other License Agreements executed for this location.

DATED at Burlington, Vermont this _____ day of _____,

2013.

CITY OF BURLINGTON

By: _____
Miro Weinberger, Mayor
Duly Authorized

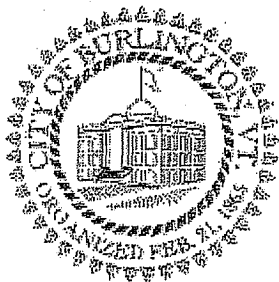
Witness

THE SKI RACK, INC.
d/b/a PATAGONIA BURLINGTON

By: _____
Duly Authorized

Witness

lb/c: GM 2013/License Agree for Encumbrance - PATAGONIA, 157 Bank St. (Sign on Building) 2013
5/9/13



OFFICE OF THE CLERK AND TREASURER
149 CHURCH STREET
BURLINGTON, VT 05401
Voice (802)865-7000
FAX (802)865-7014
TTY (802)865-7142
Amy Bovee (802)865-7019
Ron Gore (802)865-7562

Encumbrance Application / Renewal

Effective 04/30/2013 - 04/30/2014

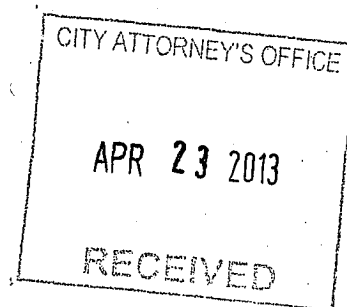
ZANDY WHEELER
Patagonia Burlington
157 BANK STREET

DATE: Tuesday, February 5, 2013

PHONE: 8028635668

FAX: 8026585083

EMAIL:



DBA NAME: Patagonia Burlington

COMPANY: The Ski Rack

LOCATION: 157 BANK STREET

Permission is requested to allow/continue the encumbrance in the following area and manner (please describe fully, including size and physical barriers around area i.e. trees, grates, parking meters, etc with photos, diagrams, blueprints; may reference prior application):

Placement of Encumbrance: PROJECTING SIGN

Conditions: Keeping public ways clear

Total Square Feet (\$1.00 per SF): 4

PLEASE ATTACH:

1. Certificate of Liability Insurance with holder as the: "CITY OF BURLINGTON, CLERK/TREASURER'S OFFICE ENCUMBRANCE APPLICATION DEPT., 149 CHURCH ST., BURLINGTON, VT 05401"
2. Endorsement to Insurance Policy outlining the Cancellation Policy
3. Endorsement to Insurance Policy listing the City as Additional Insured
4. Sketch, Photo, or Blueprint of what you are proposing.
5. Check for the square feet fees (\$1 per square foot) + \$25 Application fee: \$29.00

Signature

ZANDY WHEELER

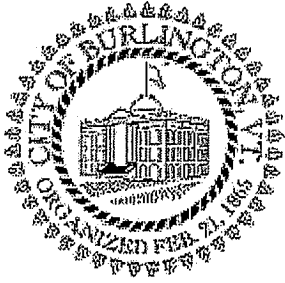
Date

4/4/13

For office use only: Amount received \$ 29.00 on 4/5 Check # 5109

Sent to Attorney: 4/23

Exhibit A



OFFICE OF THE CLERK AND TREASURER
149 CHURCH STREET
BURLINGTON, VT 05401
Voice (802)865-7000
FAX (802)865-7014
TTY (802)865-7142
Amy Bovee (802)865-7019
Ron Gore (802)865-7562

Encumbrance DPW Approval Form

Effective 05/01/2013 - 04/30/2014

ATTENTION: RON GORE, BURLINGTON DEPARTMENT OF PUBLIC WORKS

DBA NAME: Patagonia Burlington

DATE: Friday, April 5, 2013

COMPANY: The Ski Rack

PHONE: 8028635668

LOCATION: 157 BANK STREET

FAX: 8026585083

MAILING ADDRESS: ZANDY WHEELER
157 BANK STREET

RACKS / RAMPS / STAIRS / TABLES / CHAIRS ETC

1. Racks, ramps, sidewalks encumbrances should be located on private property, if possible. In the opinion of the City Building Inspector, is there an available alternative location for the ramp on private property? Yes ☐ No ☐ *N/A*

2. Will there be sufficient width for plows and pedestrian access if racks, ramp, sidewalk, tables & chairs encumbrances are added on the sidewalk? Yes ☒ No ☐

3. Additional Comments: *EXISTING SIGN - MOUNTED ON BUILDING
GREATER THAN 7'-0" ABOVE SIDEWALK*

4. A 4 square foot placement of PROJECTING SIGN at 157 BANK STREET

DEPARTMENT OF PUBLIC WORKS

Approved? Yes ☒

No ☐

Explain: *RENEWAL - SAME AS PREVIOUS YEAR*

Signature *Ron Gore*

Date: *04/20/13*

Exhibit B

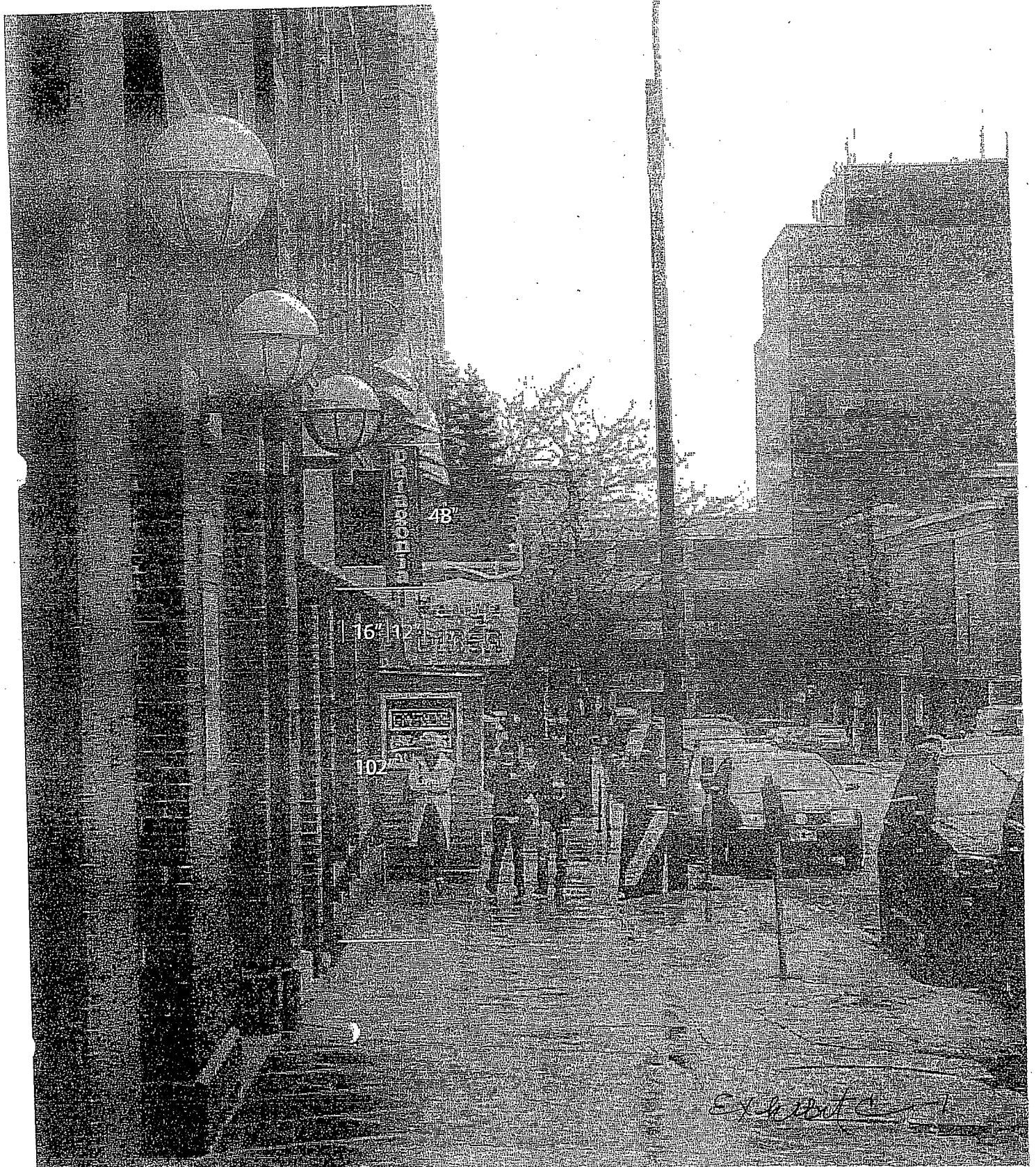


Exhibit C-1

Sign B

d-2



Projecting Sign-Front Elevation

4/11/11

180 Flynn Ave: Ste. 5, Burlington, Vt. 05401-5482 802-862-1060 hglaeserco@aol.com



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/26/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Horizon Agency, Inc. 6500 City West Pkwy #100 Eden Prairie, Minnesota 55344	Phone: (952)944-2929 Fax: (952)944-3091	CONTACT NAME: Linda Bregel, CISR PHONE (A/C, No. Ext): (952)914-7133 E-MAIL: linda@horizonagency.com ADDRESS:	FAX (A/C, No): (952)944-3091
INSURED The Ski Rack, Inc. 85 Main Street Burlington, VT 05401		INSURER(S) AFFORDING COVERAGE INSURER A: National Fire Insurance Company Of Hartford INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 20478	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC		2097826919	6/8/2012	6/8/2013	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS HIRED AUTOS SCHEDULED AUTOS NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Additional Insured (per form SB146932D 07/2009): City of Burlington

Solely as respects to the negligence of the named insured with regard to a bike rack and tent in front of insured's store at 85 Main Street and in regard to a projecting sign in overhanging the sidewalk in front of the insured's store at 157 Bank Street. Cancellation provision applies per form SB147049-B (07/2009).

CERTIFICATE HOLDER

CANCELLATION

Holder's Nature of Interest : Certificate Holder

City of Burlington; City Clerk &
ATTN: Susan Meehan
Treasury Off; Encumbrance App Div
149 Church Street
Burlington, VT 05401

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Exhibit D

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

VERMONT CHANGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS SPECIAL PROPERTY COVERAGE FORM
BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS

A. The Businessowners Special Property Coverage Form is amended as follows:

1. The following is added to Paragraph F.4. Legal Action Against Us Commercial Property Condition:

However, your right to bring legal action against us is not conditioned upon your compliance with the provisions of the Appraisal Property Loss Condition, if any.

2. The following is added to Paragraph E.4. Loss Payment - Building and Personal Property Property Loss Condition and replaces any provision to the contrary:

We will pay for covered loss or damage within 10 working days after we reach agreement with you on the amount of loss, provided all other terms of the Loss Payment Property Loss Condition are satisfied.

B. The Businessowners Common Policy Conditions are amended as follows:

1. Paragraph A. Cancellation is replaced by the following:

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

2. Cancellation of Policies in Effect for Less than 60 Days.

If this policy has been in effect for less than 60 days and this policy is not a renewal of a policy we issued, we may cancel this policy by:

a. Giving the first Named Insured at least 15 days' notice prior to the cancellation date for nonpayment of premium or substantial increase in hazard; or

b. Mailing or delivering the first Named Insured at least 45 days' notice prior to the cancellation date for any other reason.

If cancellation is for nonpayment of premium, written notice may be sent by certificate of mailing or certified mail. If cancellation is for any reason other than nonpayment of premium, written notice must be sent by certified mail.

3. Cancellation of Policies in Effect For 60 Days or More

If this policy has been in effect for 60 days or more, or if this is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- a.** Nonpayment of premium;
- b.** Fraud or material misrepresentation affecting this policy or in the presentation of claims under this policy;
- c.** Violation of any provisions of this policy; or
- d.** Substantial increase in hazard; provided we have secured approval for the cancellation from the commissioner of insurance.

If we cancel this policy for one of the reasons specified in paragraph 3., we will cancel only in the following manner:

- a.** By giving at least 15 days' notice before the effective date of cancellation if we cancel for nonpayment of premium; or
- b.** By mailing or delivering at least 45 days' notice before the effective date of cancellation if we cancel for any other reason.

Written notice of cancellation, including the reason for cancellation, will be mailed or delivered to the first Named Insured at the first Named Insured's last mailing address known to us.

If cancellation is for nonpayment of premium, written notice may be sent by certificate of mailing or certified mail. If cancellation is for any reason other than

d. In the event of the insured's bankruptcy or insolvency; an injured person or claimant who has obtained a judgment against the insured may bring suit against us, provided:

(1) The judgment was for damages covered by this policy; and

(2) The suit is for damages in amounts no greater than the applicable Limits of Insurance of this policy.

e. Payment by the insured of any judicial judgment or claim for any of our liability under this policy will not deprive the insured of the right to bring action against us.

CNA Connect**Endorsement Declaration**

POLICY NUMBER
B 2097826919

COVERAGE PROVIDED BY
NATIONAL FIRE INSURANCE OF HARTFORD
333 S. WABASH
CHICAGO, IL. 60604

FROM - POLICY PERIOD - TO
06/08/2012 06/08/2013

INSURED NAME AND ADDRESS
THE SKI RACK, INC.
85 Main St

BURLINGTON, VT 05401

AGENCY NUMBER
901594

AGENCY NAME AND ADDRESS
HORIZON AGENCY (NAT'L SKI)
6500 CITY WEST PARKWAY #100
EDEN PRAIRIE, MN 55344
Phone Number: (952)944-2929

000020 **BRANCH NUMBER**
410

BRANCH NAME AND ADDRESS
MINNEAPOLIS BRANCH
5201 EDEN AVENUE STE 300
EDINA, MN 55436
Phone Number: (952)285-3300

This policy becomes effective and expires at 12:01 A.M. standard time at your mailing address on the dates shown above.

This endorsement changes your policy. Please read it carefully.
This Endorsement Results In No Change In Premium.

The Named Insured is a Corporation.

Audit Period is Waived

RECEIVED APR 22 2013

POLICY NUMBER
B 2097826919

INSURED NAME AND ADDRESS
THE SKI RACK, INC.
85 Main St
BURLINGTON, VT 05401

ADDITIONAL INTEREST SCHEDULE

LOCATION 1 **BUILDING** 1

The following has been added to your policy effective 04/08/2013

Type: State or Political Subdivisions - Permits relating to Premises
Additional Interest Name and Address:
THE CITY OF BURLINGTON
149 CHURCH STREET
BURLINGTON , VT 05401

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
**ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS
RELATING TO PREMISES**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM

SCHEDULE

State Or Political Subdivision

* Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.

The following is added to Paragraph **C. Who Is An Insured:**

5. Any state or political subdivision shown in the Schedule is also an insured, subject to the following additional provision:

This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:

- a. The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decoration and similar exposures;
- b. The construction, erection, or removal of elevators; or
- c. The ownership, maintenance, or use of any elevators covered by this insurance.

000020

3002080188441003010473711217



POLICY NUMBER
B 2097826919

INSURED NAME AND ADDRESS
THE SKI RACK, INC.
85 Main St
BURLINGTON, VT 05401

FORMS AND ENDORSEMENTS SCHEDULE

The following list shows the Forms, Schedules and Endorsements by Line of Business that are a part of this policy.

COMMERCIAL GENERAL LIABILITY

The following forms have been added to your policy, effective 04/08/2013

FORM NUMBER	FORM TITLE
SB300184A	01/2006 Addl Insrd - State/Political Subdivision-Premises

000020



Countersignature

Thomas F. Holman
Chairman of the Board

Jonathan Kauter
Secretary