

COMMERCIAL LEASE

Greyhaven Realty Management Co.
6139 Preservation Drive, Suite 1, Chattanooga, TN 37416

This Lease made this 12th day of December, 2012 by and between Estate of Alvin Cannon ("Lessor") and Warren Mackey ("Lessee"). The Lessor hereby leases to Lessee, and Lessee hereby rents from Lessor, subject to the following terms and conditions, the premises situated in the City of Chattanooga described as follows: 4744 Hwy 58, Chattanooga, TN 37416 (approximately 800 square feet) Hamilton County Tax Map 129B E 028 (The Premises").

TERMS AND CONDITIONS

1. **Term:** The term hereof shall commence on the 12th day of December, 2012 and expire on 30th day of November 2013.
2. **Rent:** During the term of this Lease, Tenant covenants and agrees to pay the Landlord a fixed minimum rent (hereinafter called the "Minimum Rent"), in equal monthly installments on the first (1st) day of each and every month in advance, payable to Landlord's Agent at the offices of the Landlord's Agent or such other place as the Landlord may designate in writing to Tenant as follows:
 - a. Commencing January 1, 2013 and terminating November 30, 2013, a minimum annual rent of Six Thousand and no/100 (\$6,000.00) per year payable in equal monthly installments of Five Hundred and no/100 (\$500.00).
 - b. Rent for the partial month of December (December 18, 2012 – December 31, 2012) shall be Two Hundred Twenty-five and 82/100 (\$225.82).
 - c. Rent for partial months at the beginning and at the end of the lease term shall be prorated on a per diem basis. All rents shall be paid to Greyhaven Realty Management Co., 5222 Old Hixson Pike, Chattanooga, TN 37343, as agent for Lessor or to such other persons or at such other places as may be designated by Lessor from time to time.
 - d. Time is of the essence of this Lease and Tenant shall pay the rent herein reserved at the time and place specified without deduction, set off, notice, or demand. Tenant expressly waives any and all requirements for written notice for nonpayment of rent.
3. **Use:** The Premises are to be used for Monument Stone retail store and for no other purposes without the prior written consent of Lessor. Lessee shall not use any portion of the Premises for purposes other than those specified hereinabove, and no use shall be made or permitted upon the Premises nor any act done which will increase the existing rate of insurance upon the property, cause cancellation of insurance policies covering said property or violate any law or ordinance. Lessee shall not conduct or permit any sale by auction on the Premises.
4. **Assignment and Subletting:** Lessee shall not assign this Lease or any interest therein or sublet any portion of the Premises without the prior written consent of the Lessor, which shall not be unreasonably withheld. Any such assignment or subletting without prior written consent of Lessor shall be void, and at the option of the Lessor, may terminate the Lease.
5. **Ordinances and Statutes:** Lessee shall comply with all statutes, ordinances, and requirements of all municipal, county, state, and federal authorities now in force or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee. The commencement or pendency of any state or federal court abatement proceeding affecting the use of the Premises shall, at the option of the Lessor, be deemed a breach hereof.

6. Maintenance, Repairs, and Alterations:

- a. Lessee acknowledges that the Premises are in good order and repair, unless otherwise indicated herein. Lessee shall at its own expense and at all times maintain the Premises in good and safe conditions, including plate glass, electrical wiring, plumbing and heating installations, and any other system or equipment upon the Premises, and shall surrender the same at the termination or expiration hereof, as in good condition as received, normal wear and tear excepted. Lessee shall be responsible for all repairs required, excepting the following: **roof, supporting structure, and paved areas**, which shall be maintained by Lessor.
- b. No improvement or alteration of the Premises shall be made without the prior written consent of the Lessor. Notice is hereby given that Lessor shall not be liable for any labor or materials furnished or to be furnished Lessee upon credit, and that no mechanics' or materialmen's lien or other lien for labor or material shall attach to or affect the reversionary or other estate or interest of Lessor in the Premises. In the event any such lien is filed against the Premises or the underlying land arising as a result of work or labor in the Premises, such lien shall be discharged by Lessee within fifteen (15) days after notice of the lien at Lessee's sole cost and expense. If Lessee fails to discharge any such mechanic's or materialmen's lien, Lessor may discharge such lien and invoice Lessee for the cost thereof, including, without limitation, reasonable attorneys' fees and a five percent (5%) percent administrative fee, as additional Rent payable within ten (10) days of demand by Lessor. It is expressly agreed that such discharge by Lessor shall not be deemed to waive or release the default of Lessee in not discharging such lien. Any improvements or alterations permitted by Lessor shall be done in a good and workmanlike manner and shall become part of the Premises.

7. **Entry and Inspection:** Lessee shall permit Lessor, Agent, or their respective representatives to enter upon the Premises at reasonable times and upon reasonable notice for the purpose of inspecting the same, and will permit Lessor or Agent at any time within Sixty (60) days prior to the expiration of this Lease, to place upon the Premises any unusual "For Sale" or "For Lease" signs, and permit persons desiring to lease or purchase the same to inspect the Premises thereafter.
8. **Indemnification of Lessor:** Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property occurring on the Premises or any part thereof, and Lessee agrees to hold Lessor harmless from any claims for damages, no matter how caused.
9. **Lien On Lessee's Property:** To protect Lessor in the event Lessee defaults hereunder, Lessee hereby grants to Lessor a continuing security interest for all rent and other sums of money becoming due hereunder from Lessee, and upon all goods, wares, chattels, fixtures, furniture, and other personal property of Lessee which are or may be located on the leased premises without Lessor's consent so long as any rent or other such sum from time to time owed to Lessor hereunder remains unpaid. Lessee shall, on its receipt of a written request therefore from Lessor, execute such financing statements, continuation statements, and other instruments as are necessary or desirable, in Lessor's judgment, to perfect such security interest.
10. **Possession:** Upon complete execution of the Lease and a certificate of insurance.
11. **Insurance:**
 - a. At all times during the term of this Lease and so long as Lessee occupies the Premises, or any part thereof, Lessee, at its expense shall obtain and maintain in full force and effect public liability insurance covering the Premises and the adjoining parking lot, and the use and occupancy of the same, in a company or companies licensed to do business in Tennessee under a policy satisfactory to Lessor, naming Lessor and Agent as an additional insured, with limits of not less than Two Million Dollars (\$2,000,000) on account of bodily injuries or death and property damage as a result of an occurrence, or in such other and greater amounts as Lessor may reasonable require from time to time.
 - b. Lessee shall also obtain and maintain causes of loss, special form property insurance insuring its interest in Lessee's improvements in the Premises and its interest in its furniture, fixtures, equipment, inventory and all supplies herein, which insurance shall cover Lessee to the full insurable value thereof against all such

property and improvements. Lessee hereby waives and rights of action against Lessor for loss or damage that would be covered by the insurance required hereunder, and Lessee covenants and agrees with Lessor that such policy shall contain a waiver from the carrier of all subrogation rights as against Lessor.

- c. All liability policies required under this provision 12 shall include Lessor and Agent as an additional insured and shall contain a provision that they may not be cancelled without first giving Lessor no less than thirty (30) days' prior written notice. Duplicate policies or certificates of all such insurance shall be delivered to Lessor not less than fifteen (15) days prior to each effective date evidencing that the insurance required hereunder is in effect and that the premiums have been paid.
12. **Utilities:** Lessee agrees that it shall be responsible for the payment of all utilities, gas, electricity, heat, water, sewer, and other services delivered to the Premises. Lessee will provide their own cleaning service. Water and sewer will be billed back to tenant as the property has only one meter. The Lessee's pro rata share of the water and sewer bill will be 10% of the bill. Lessee will be billed in arrears and tenant agrees to pay the water and sewer charge within 15 days of the invoice. Lessee will be charged a 10% late fee on any water and sewer invoice paid after the 15 day invoice. A copy of the water and sewer bill will accompany the invoice. Lessee is also responsible for payment of a pro-rata share of the stormwater fee.
13. **Signs:** Lessor reserves the exclusive right to the roof, side, and rear walls of the Premises. Lessee shall not construct any projecting sign or awning without the prior written consent of Lessor which consent shall not be unreasonably withheld.
14. **Abandonment of Premises:** Lessee shall promptly occupy and not vacate or abandon the Premises at any time during the term hereof, and if Lessee shall abandon or vacate the Premises, or be dispossessed by process of law, or otherwise, any personal property belonging to Lessee left upon the Premises shall be deemed to be abandoned, at the option of the Lessor.
15. **Condemnation:** If part of the Premises shall be taken or condemned for public use and a part thereof remains which is susceptible of occupation hereunder, this lease shall, as to the part taken, terminate as of the date the condemning authority acquires possession, and thereafter Lessee shall be required to pay such proportion of the rent for the remaining term as the value of the Premises remaining bears to the total value of the Premises at the date of condemnation; provided, however, that Lessor may at its option terminate this lease as of the date the authority acquires possession. In the event that the demised Premises are condemned in whole or such portion is condemned that the remainder is not susceptible for use hereunder, this lease shall terminate upon the date upon which the condemning authority acquires possession. All sums which may be payable on account of any condemnation shall belong to the Lessor, and Lessee shall not be entitled to any part thereof, provided, however, that Lessee shall be entitled to retain any amount awarded to it for its trade fixtures or moving expenses.
16. **Trade Fixtures:** Any and all improvements made to the Premises during the term hereof shall belong to the Lessor, except trade fixtures of the Lessee. Provided Lessee is not in default hereunder, Lessee may, upon the termination or expiration hereof, remove all of its trade fixtures but shall repair or pay for all repairs necessary for damages to the Premises occasioned by such removal, and further provided however, that heating, ventilating and air-conditioning equipment shall not be considered trade fixtures.
17. **Destruction of Premises:** If at any time the Premises become totally untenable by reason of damage or loss by fire or other casualty and such fire or other casualty shall not have been caused by the negligence or wrongful act or omission of Lessee, Lessee's servants, agents, licensees or invitees, the rent shall abate until the Premises have been restored to tenable condition, but nothing herein is to be construed as requiring Lessor to restore or rebuild the Premises. If the Premises are so damaged, but not to the extent that they are totally untenable, Lessee shall continue to occupy the same or the tenable portion thereof, and the rent shall abate proportionately in the ratio that the portion unusable for the purposes permitted in Paragraph 3 hereinabove bears to the entire Premises. In the event of loss or fire or other casualty, Lessor shall have an election not to rebuild or recondition the Premises, which election may be exercised by written notice thereof to Lessee given within thirty (30) days from the date of such loss. If Lessor exercises its election, this lease shall cease and terminate effective on the date of such loss, and Lessee shall pay the accrued rent up to the date of such loss, or Lessor, if the rent has been paid beyond such date, will refund to Lessee that proportion

or part of any such rent prepaid, and thereafter this lease shall become null and void with no further obligation on the part of either party.

18. **Insolvency:** In the event that a receiver shall be appointed to take over the business of the Lessee, or in the event that the Lessee shall make a general assignment for the benefit of creditors, or if Lessee shall take or suffer any action under any insolvency or bankruptcy act, the same shall constitute a breach of this lease by Lessee.

19. **Events of Default/Remedies:**

- a. In the event of (i) the failure of Lessee to pay rent or other sum due hereunder within fifteen (15) days from the due date, or (ii) any breach by Lessee of any non-monetary covenant or condition herein which is not remedied within thirty (30) days after written notice thereof to Lessee from Lessor, Lessor may at its option, terminate this lease and recover possession of the Premises and relet the same for the remainder of the term at the best rent Lessor may obtain, making reasonable efforts in connection therewith for the account of Lessee, and Lessee shall make good any deficiency. Nothing contained herein shall be deemed to limit any other rights or remedies Lessor may have. The exercise by Lessor of any right granted herein shall not relieve Lessee from the obligations to make all rental payments and to fulfill all other covenants required by the Lessee at the time and in the manner provided herein. Lessee throughout the remaining term hereof shall pay Lessor, each month during the term, the then current excess, if any, of the sum of the unpaid rentals and costs, including reasonable attorney's fees, to Lessor resulting from such default by Lessee over the proceeds, if any, from reletting.
 - b. If Lessee shall present to Lessor more than twice during the lease term checks or drafts not honored by the institution upon which they are issued, then Lessor may require that future payments of rent and other sums thereafter payable be made certified or cashier's check.
 - c. Charge for Late Payment. Other remedies for non-payment of rent notwithstanding, any installment of rent which is not paid within ten (10) days after the due date shall be subject, at Lessor's option each month, to a late charge equal to ten percent (10%) of the amount due, which shall be payable as additional Rent.
20. **Security:** Contemporaneously with the execution of this Lease, Lessee has deposited with the Lessor the sum of \$500.00 the receipt of which is hereby acknowledged by Lessor. This sum shall be held by Lessor, without liability for interest and without credit against any rent due hereunder, as security for the faithful performance by Lessee of all the terms, covenants and conditions of this lease to be performed by Lessee during the term hereof. Any portion of the deposit not so used by lessor shall be returned to Lessee at the end of the leased term.
21. **Attorney's Fees:** Lessee agrees to pay Lessor within ten (10) days after date Lessor mails the Lessee a statement for reasonable attorney fees in the event Lessor employs an attorney to (i) collect rent due (ii) protect the interest of Lessor in the event of Lessee's bankruptcy; or (iii) protect Lessor's rights in the event legal process is levied upon the goods, furniture, effects or personal property of Lessee upon the Premises; or (iv) to prevent Lessee from violating, or to rectify the violation of any of the terms, conditions or covenants on the part of Lessee herein contained. Lessee further agrees to pay all other reasonable costs incurred by Lessor in securing performance by Lessee of all said terms conditions or covenants of this Lease. .
22. **Waiver:** No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.
23. **Notices:** All notices required or permitted by the terms of this lease must be given in writing by United States registered or certified mail addressed to Lessee on the Premises and addressed to Lessor in care of **Greyhaven Realty Management Co., 5222 Old Hixson Pike Chattanooga, TN 37343.** The date such notice shall be deemed to have been given shall be the date when it is deposited in the United States mail, postage prepaid, in accordance with the provisions of this paragraph. Any address herein specified may be changed from time to time by either party by written notice given to the other party as above provided.

24. **Holding Over:** Any holding over by Lessee of the Premises after the expiration of this Lease shall operate and be construed as a tenancy from month to month only with rental in an amount equal to double the monthly rental payable in Paragraph 2 hereof.
25. **Time:** Time is of the essence of this Lease.
26. **Heirs, Assigns, and Successors:** This lease is binding upon and, except as limited herein, inures to the benefit of the respective heirs, assigns and successors in interest of the parties.
27. **Tax and Insurance Increases:** If at any time during the primary term of this Lease or any renewal or extension thereof, the premium for fire and extended coverage insurance carried by Lessor covering the Premises (hereinafter collectively referred to as the "Insurance Premiums") shall exceed the Insurance Premiums for the "Base Insurance Year" of 2012, Lessee shall pay to Lessor upon demand, and in addition to the rentals and other charges provided in this Lease, all of such increases attributable to the Premises.

In the event that there is any increase during any year of the term of this Lease in the city, county or state real estate taxes attributable to the Premises over and above the amount of such taxes assessed and most recently billed to Lessor for 2012 (the "Base Tax Year"), whether because of increased rate or valuation, Lessee shall pay Lessor upon presentation of paid tax bills, the amount of such increase attributable to the Premises. The parties shall use their best efforts to cause the Premises to be separately assessed by the appropriate taxing authorities. In the event that the Premises are not separately assessed but are contained within an assessment for adjacent property, Lessee shall pay to Lessor its proportionate share of such increases over the Base Tax Year in the percentage equal to the ratio which the rentable square footage of the improvements on the Premises bears to the rentable square footage of all improvements upon the land in which the Premises are located. In the event that such taxes are assessed for a tax year extending beyond the term of the Lease, the obligation of Lessee shall be proportionate to the portion of the lease term included in such year

28. **Rent Tax:** In the event that any Federal, State, or local law is passed during the Lease Term, or any extension or renewal thereof, requiring the payment of a tax or assessment based on the amount of rent to be paid by Lessee under this Lease, or in any other manner subjecting the rent provided in this Lease to any other form of tax by whatever name it may be designated, such tax shall be the obligation of and shall be paid by Lessee and shall be in addition to the rent to be paid by Lessee as specified in this Lease. Lessee shall pay such obligation promptly upon receipt of notice from Lessor that such obligation is due.
29. **Quiet Enjoyment:** Lessor covenants and warrants that Lessee shall have and enjoy full, quiet and peaceful possession of the Premises, their appurtenances and all rights and privileges incidental thereto during the term hereof and all extensions and renewals thereof.
30. **Subordination:** This Lease is and shall remain subordinate to any mortgage on the Premises and any extensions or modifications thereof. Lessee hereby attorns to any mortgagee succeeding to the interest of Lessor in the Premises and agrees that upon prior written notice by such mortgagee, Lessee will make all future rental payments hereunder directly to the mortgagee.
31. **Entire Agreement:** The foregoing constitutes the entire agreement between the parties and may be modified only in writing signed by the parties hereto or their successors in interest. The following exhibits, if any have been made part of this Lease before the parties' execution hereof: Tenant has a one year option to renew the lease at the same terms and conditions provided Tenant is not in default. Tenant will give Landlord a sixty (60) day written to exercise the option. At the end of the second year Tenant has the option to sign a three (3) year lease with a 10% increase in rent each year.

This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of Tennessee.
IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

LESSOR:

Sun Trust Bank as Trustee, Estate of Alvin Cannon

Christy Gandy, Agent for Sun Trust Bank Executor and Trustee

BY:

David Rogers, Vice President *AVP*

LESSEE:

Warren Mackey
Warren Mackey