

DEVELOPMENT AGREEMENT

THIS AGREEMENT is made and entered into, as of the date last executed by either party below, by and between **AKIL, LLC** (“Developer”) and the **REDEVELOPMENT AUTHORITY OF THE CITY OF RACINE**, a municipal entity located in Racine County, Wisconsin (“RDA”).

RECITALS:

1. The RDA currently holds title to the vacant parcels located in Racine, Wisconsin (the “Property”) more particularly described as:

Address (all Racine, Wisconsin, 53403)	Tax ID Number (all 2760000-)
1152 Washington Avenue	08656000
1130 Washington Avenue	08658000
1128 Washington Avenue	08659000
1116 Washington Avenue	08660002
1309 Eleventh Street	08666000

2. On January 12, 2012, the RDA granted to Developer an option to purchase the Property (“Option”), which Option is incorporated herein as Exhibit A.

In consideration of the RDA’s sale of the Property to Developer, and other good and valuable consideration, the adequacy and exchange of which the Parties hereby conclusively admit,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Construction.**
 - (a) Developer shall, within one year of the closing of Developer’s purchase of the Property, complete (as indicated by the issuance of an occupancy

permit therefor) the redevelopment of the Property consistent with Developer's plans submitted to the City of Racine Department of City Development on October 26, 2012, copies of which are attached to this agreement as Exhibit B.

- (b) Developer shall complete the redevelopment of the Property consistent with all required reviews, permits and approvals, including, without limitation, any and all specific project approvals and conditions as may be granted or imposed by the City of Racine and any design conditions required by the Uptown Access Corridor Overlay District. All costs related to such reviews, permits, approvals and construction, including, without limitation, all required permit fees, shall be the sole responsible of Developer.
- (c) During construction, Developer shall comply with all applicable laws and restrictions, including without limitation those contained in the City of Racine's Code of Ordinances and in the Wisconsin Administrative Codes. Developer further agrees to take all reasonable measures to minimize the tracking of dirt and debris onto the public streets during construction. Developer further agrees to remove any construction dirt and debris that does collect in the public street no later than the end of each working day. If Developer fails to do so, the City of Racine may clear the public streets of construction dirt or debris from the Property at the expense of Developer, which may be collected as a special charge against the

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Property if Developer fails to reimburse the City for such costs on demand therefor.

3. **Development Incentive.** Developer and the RDA have each determined and agree that Developer's purchase and development of the Property may not have occurred in the manner desired by the City, or at all, but for the RDA's agreement to provide Developer with the limited financial assistance set forth in this paragraph. Provided that Developer is not in default under the terms of this Agreement, or in violation of any approvals or other obligations imposed on Developer with respect to the Property, the RDA agrees to pay to Developer an annual incentive payment, payable within 60 days of the final tax settlement date (which is typically on or about August 20), in an amount equal to One Hundred (100%) Percent of the Property Tax Increment paid by Developer to the City in said year. For purposes of calculating the incentive to be paid to Developer under this paragraph, "Property Tax Increment" shall mean the amount of real property tax actually received by the City attributable to the application of the City's mill rate to that portion of the Property's assessed value, in any given year, that is in excess of \$10,000. Property Tax Increment shall not take into account any taxes paid by Developer to, or received by, any other taxing jurisdiction with respect to the Property, or any property tax payable to the City on the first \$10,000 of the Property's assessed value, but only that portion of the Property's assessed value in excess of \$10,000 that is attributable to the City's tax levy. The incentive under this paragraph shall be payable by the RDA to Developer for a maximum of two tax years, namely the one in which Developer purchases the Property from the

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RDA and the following year, provided that Developer has obtained an occupancy permit from the City for Developer's convenience store and one additional commercial unit on the Property during said second year, as required by this Agreement. Payments from the RDA hereunder shall not constitute general obligation debt but rather shall be payable solely from, and only to the extent that, funds are appropriated for such purpose. Property Tax Increment is used herein as a measure of the value to the City of the investment by Developer that is made possible by this Agreement. The incentive payable under this paragraph shall be non-interest bearing, and shall not accrue from year to year such that, if Developer fails to qualify for any incentive in a given year, the total incentive potentially payable to Developer under this Agreement shall be reduced. The RDA's obligation to make any incentive payments under this paragraph is conditioned upon the timely payment of Property Tax Increment by Developer.

4. **Property Use and Conveyance Restrictions.** Notwithstanding the Property's current or future zoning, Developer may not use or allow the Property to be used for any of the following purposes: tax-exempt uses; rent-to-own stores; check cashing, payday loan or similar stores; re-sale or second-hand stores, excluding antique stores; tattoo parlors; firearms dealers; taverns; or shops in which 50% or more of the retail floor space is used for retail sale of alcoholic beverages, tobacco products or smoking accessories. Within 30 days of taking title to the Property, Developer shall record in the Racine County Register of Deeds office, and provide a recorded copy thereof to the RDA, a deed restriction or similar encumbrance against the Property, in a form acceptable to the RDA,

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memorializing the use limitations set forth in this paragraph. Additionally, Developer may not sell or otherwise transfer or convey the Property, other than to an entity wholly-owned by Akil, LLC or by Akil Ajmeri, until such time as an occupancy permit for the redeveloped Property has been issued.

5. **Reimbursement for City's Costs.** Developer shall reimburse the RDA up to \$2,000 for the RDA's costs, including the RDA's reasonable attorney fees, related in any way to the Option and to the Property's conveyance, including this Agreement. Developer understands and acknowledges that the attorneys retained by the RDA are acting exclusively on behalf of the RDA and not Developer. Developer shall tender payment to the RDA of reimbursement for such costs within 30 days of the RDA's demand therefor. If Developer fails to reimburse the RDA as provided herein, such amount may be collected by the City of Racine as a special charge against the Property.
6. **Hiring Preference.** In consideration of the RDA's sale of the Property to Developer, Developer agrees that it shall endeavor to, and shall require any business lessee of the Property to endeavor to, hire City of Racine residents for any business to be operated at the Property.
7. **Legal Action.** The RDA may take any and all action at law or equity to enforce compliance with the provisions of this Agreement, and in the event of a legal action in which the final determination is in favor of the RDA, the RDA shall be entitled to collect from Developer statutory costs and disbursements, plus its actual attorneys' fees and costs.

8. **Personal Liability of Public Officials.** In carrying out any of the provisions of this Agreement or in exercising any power or authority granted to them thereby, there shall be no personal liability of the RDA officers, agents, consultants or employees, it being understood and agreed that in such matters they act as agents and representatives of the RDA.

9. **Indemnification.** Developer hereby expressly agrees to indemnify and hold the RDA and the City of Racine and their agents, consultants, officers and employees harmless from and against all claims, judgments, damages, penalties, fines, costs or loss (including reasonable fees for attorneys and consultants) and liability of every kind and nature, including liability under any environmental laws, for any injury (including death) or any damage (physical, monetary or otherwise) received or sustained by any person or entity in connection with, or on account of the Property, or Developer's performance of work involving the Property, or related in way to this Agreement. Developer further agrees to aid and defend the RDA and City of Racine or their agents (at no cost to the RDA, the City of Racine or their agents, consultants and employees) in the event they are named as a defendant in an action concerning the Property, or any of Developer's work involving the Property, or related in any way to this Agreement, including any suit brought by any officer, employee, agent or consultant of Developer. Developer is not an agent or employee of the RDA or the City of Racine, nor shall any employee of Developer be deemed an employee of the RDA or the City of Racine for any purpose, including workers' compensation or unemployment compensation.

10. **Successors and Assignment.** This Agreement may not be assigned by Developer without the prior written consent of the RDA.
11. **Developer Default.** In the event Developer fails to timely perform any one or more of its obligations under this Agreement (an “Developer Default”), the RDA shall promptly provide written notice to Developer to the extent known by the RDA of the action or omission constituting the basis for the default. The notice shall provide Developer at least twenty (20) days from the date of the notice to cure any default, unless Developer is notified by the RDA that a shorter cure time is required given the nature of the default. The RDA may extend any cure period for such time as is reasonably necessary to cure the default if Developer promptly commences activities to cure the default and in good faith diligently pursues such activities to fully cure the default, but in no event shall the period of time to cure the default exceed sixty (60) days from the date of the RDA’s notice. In the event a Developer Default is not fully and timely cured by Developer, the RDA shall have all of the rights and remedies available at law and in equity, including without limitation, the right to specific performance.
12. **Notices.** All notices permitted or required by this Agreement shall be given in writing and shall be considered given upon receipt if hand delivered to the party or person intended or a successor designated by a party to this Agreement, or upon facsimile transmission to the fax numbers set forth herein or a successor number or numbers designated by the party, or one business day after deposit with a nationally recognized overnight commercial courier service, air bill prepaid, or forty-eight (48) hours after deposit in the United States mail, postage prepaid, by

certified mail, return receipt requested, addressed by name and address to the party or person intended as follows, or a successor party or address, or both:

To Developer: Akil, LLC
c/o Akil Ajmeri
2714 4-½ Mile Road
Racine, WI 53402
Fax: (262) 639-2876

To the RDA: City of Racine
Attention: City Clerk
730 Washington Avenue
Racine, WI 53403
Fax: (262) 636-9298

and to,

Brian F. O’Connell, AICP
Director of City Development
City Hall, Room 102
730 Washington Avenue
Racine, WI 53403
Fax: (262) 635-5347

- 13. **Severability.** The provisions of this Agreement are severable. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall be binding on all parties.
- 14. **Effective Date.** This Agreement becomes effective as of the date last executed by a party below.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

Dated this _____ day of _____, 2012.

AKIL, LLC

By: _____ Attest: _____
Akil Ajmeri, Member Title: _____

Dated this _____ day of _____, 2012.

**RACINE REDEVELOPMENT AUTHORITY
OF THE CITY OF RACINE**

By: _____
James Spangenberg, Chairperson

Attest: _____
Brian O'Connell, Executive Director

Approved as to form:

Robert Weber
City Attorney

Exhibit A – Option to Purchase dated January 12, 2012
Exhibit B – Plans: Proposed New Multi-Tenant Building for Ayra's, 1130 Washington Avenue,
dated ~~October 26, 2012~~.

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