

## Submission Data File

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Document Description 2	Secured Convertible Promissory Note
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Document Description 3	Warrant
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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **May 7, 2014**

**RACKWISE, INC.**

(Exact name of registrant as specified in its charter)

**Nevada**  
(State or Other Jurisdiction of Incorporation)

**333-1763172**  
(Commission File Number)

**27-0997534**  
(I.R.S. Employer Identification Number)

**2365 Iron Point Road, Suite 190**  
**Folsom, CA 95630**  
(Address of principal executive offices, including zip code)

**(888) 818-2385**  
(Registrant's telephone number, including area code)

(Former address if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement.**

On May 7, 2014 we sold a \$3,296,703 12%, three-year, Secured Convertible Promissory Note (the "Note") to Rackwise Funding II, LLC (the "Purchaser"), an entity owned by our majority stockholder Black Diamond Financial Group LLC, at a purchase price of \$3,000,000 which reflects a 9% discount to the face amount. The Purchaser was the assignee of \$3,000,000 in debt (the "Richert Debt") owed by us to our factor, Richert Funding LLC ("Richert"), which had advanced funds to us and were owed fees by us with respect to such advance. The net purchase by the Purchaser through the conversion of the Debt took place at the initial closing of an offering being made by us to the Purchaser or affiliated persons (the "Note Offering") of up to \$9,346,703 in face or principal amount of Notes at an aggregate purchase price of \$8,505,500. It is intended that the Purchaser will purchase additional tranches of Notes, each in the amount of at least \$250,000 (the "Minimum Monthly Funding Amount") on the 15<sup>th</sup> day of each month (each a "Subsequent Funding Date"). We may, in our sole discretion, determine to accept lesser amounts from the Purchaser on each Subsequent Funding Date.

The Purchaser intends to purchase additional Notes in at least the Minimum Monthly Funding Amount on each Subsequent Funding Date but no assurance can be given that the Purchaser will do so. The Notes will be secured by a security interest in and lien on all of our presently owned or subsequently acquired assets as provided in the Security Agreement between us, our wholly owned subsidiary, Visual Network Design, Inc. and the Purchaser. Subject to permitted liens, as set forth in the Subscription Agreement for the Notes, the Notes will rank senior in priority to all of our existing and future indebtedness.

The first \$6,046,703 in principal amount of Notes sold are convertible into Units (the "Initial Units") at a conversion price of \$0.50 per Initial Unit. Each unit consists of one share of our common stock and one five-year common stock purchase warrant (the "Initial Unit Warrants") with an exercise price of \$0.625 per share. The remaining \$3,300,000 in principal amount of Notes to be offered are convertible into units (the "Subsequent Units") at a conversion price of \$0.75 per Subsequent Unit. Each Subsequent Units consists of one share of our common stock and one five-year common stock purchase warrants (the "Subsequent Unit Warrants") with an exercise price of \$0.94 per share. While the Notes remain outstanding, the conversion prices for the Initial Units and Subsequent Units, if any, will be subject to weighted average anti-dilution protection and proportional adjustments subject to customary exceptions.

The Notes bear interest at the rate of 12% per annum payable quarterly in arrears. During the first year term of the Notes, until such time that we achieve positive cash flow for a minimum of two successive fiscal quarters, at our option, interest payable in any quarter maybe paid in kind and added to the balance of the Notes payable quarterly in arrears. Upon the occurrence and continuance of an Event of Default, as such term is defined in the Notes, the rate of interest payable on the Notes will be increased to 18% per annum. Payments of interest at the 18% default rate are not payable in kind.

The Purchaser has been granted a one-time demand registration right with regard to the shares comprising part of the Initial Units and Subsequent Units and the shares underlying the Initial Unit Warrants and Subsequent Unit Warrants.

We have the right to prepay the Notes upon 20 days prior written notice to the Purchaser commencing one year after the respective issuance dates of the Notes.

In connection with and at the time of each closing of Note subscriptions, the Purchaser is entitled to a cash structuring fee equal to 7.5% of the aggregate amount of capital provided by the Purchaser in connection with the purchase of the Notes. In addition, the Purchaser will receive units (the "Purchaser Fee Units"), with each Purchaser Fee Unit consisting of one share of common stock and one five-year warrant (the "Purchase Fee Unit Warrants") exercisable for the purchase of one share of our common stock. The Purchaser is entitled to receive Purchase Fee Units at the rate of 0.075 Purchase Fee Units for every \$0.50 advanced by the Purchaser in connection with the purchase of the first \$6,046,703 in principal amount of Notes. This will equate to 150 Purchase Fee Units for every \$1,000 invested at a purchase price of \$910. The first 825,375 Purchase Fee Units, which is the number of Purchase Fee Units issuable against the first \$6,046,703 in principal amount of Notes sold at a purchase price of \$5,502,500, will contain Purchase Fee Unit Warrants exercisable at a price of \$0.625 per share. The Purchaser will be entitled to receive Purchase Fee Units at the rate of \$0.075 Purchase Fee Units for every \$0.75 advanced by the Purchaser in connection with the purchase of the remaining \$3,300,000 in principal amount of Notes sold at a purchase price of \$3,003,000. This will equate to 100 Purchase Fee Units for each \$1,000 in principal amount of Notes purchased at a purchase price of \$910. The remaining Purchase Fee Units will contain Purchase Fee Unit Warrants exercisable at a price of \$0.94 per share. We do not have the cash assets to pay the \$225,000 cash structuring fee due on the initial purchase of \$3,296,703 in principal amount of Notes. Our obligation to pay such cash structuring fee shall remain as a debt obligation on our books. If we are unable to pay the cash structuring fee by October 31, 2014, the Purchaser will have the option to convert the cash structuring fee into 450,000 of our common shares and 16,452 five-year share purchase warrants, each exercisable to purchase one share of our common stock at a price of \$0.01 per share.

Upon making a payment of the Minimum Monthly Funding Amount on a Subsequent Funding Date, the Purchaser has the exclusive right to purchase the Notes on the terms provided herein until the following Subsequent Funding Date.

The final closing of the Note Offering will occur when all of the Notes offered have been sold or we determine to terminate the Offering (i) due to the failure of Purchaser to meet the minimum monthly funding requirements (a "Funding Failure") or (ii) as the result of the mutual agreement of us and the Purchaser. Notwithstanding the foregoing, we must give Purchaser a minimum of 15 days prior written notice (the "Notice Period") of our determination to terminate the Note Offering due to a Funding Failure. During the Notice Period, Purchaser will have the right to cure the Funding Failure.

The Purchaser has the right, for a period of three years from the completion of the Note Offering, to participate in subsequent (i) debt financings by us, based on the Purchaser's pro rata ownership of the Notes, and (ii) equity financings by us, based on the Purchaser's pro rata equity ownership of our common stock, on a fully-diluted basis.

If the Purchaser purchases an aggregate of \$6,046,703 in principal amount of Notes under and in accordance with the terms of the Note Offering, the Purchaser will be given a six month option, commencing upon the completion of the Note Offering, to purchase up to an additional \$5,000,000 in principal amount of Notes on the same terms and condition as the Notes purchased in the Note Offering except that the Unit conversion price shall be \$1.20 per Unit and the Unit Warrants shall have an exercise price of \$1.50 per share.

In connection with the initial closing date of the Note Offering, we have granted the Purchaser the right to appoint two new members to our board of directors.

In connection with the advances made by Richert resulting in the Richert Debt, we issued 72,420 five-year warrants to Richert and 1,448,400 five-year warrants to the Purchaser. Each of such warrants are exercisable to purchase one share of our common stock at a price of \$0.01 per share.

**Item 3.02 Unregistered Sales of Equity Securities.**

Reference is made to the disclosure set forth under Item 1.01 above, which disclosures are incorporated herein by reference.

In connection with the advances made to us by Richert, we are issuing an aggregate of 1,520,820 warrants to Richert Funding LLC and Rackwise Funding II LLC. The issuance will be made in reliance on Section 4(a)(2) of the Securities Act of 1933, as amended.

On May 5, 2014 we held a board of directors meeting at which a majority of our directors approved the grant of an aggregate of 1,063,790 stock options under our 2013 Equity Incentive Plan to 22 persons consisting of employees, non-employee directors, consultants and advisors. Each of the options is exercisable for the purchase of one share of our common stock for a period of ten years at an exercise price of \$0.50 per share. All but 10,000 of the options, which vest over a three year period, are subject to immediate vesting as the board took into account the length of service of the recipients together with the fact that options previously granted to the recipients had become worthless. As a condition to the grant, all recipients holding previously issued options are required to return such options to us for cancellation. The option recipients included our CEO/CFO Guy Archbold (353,790 options) and all of our non-employee directors who were each granted 30,000 options.

**Item 5.02 Departure of Directors or Certain Officers; Election of Directors, Appointment of Certain Officers; Compensatory Arrangements of Certain Officers**

On May 7, 2014 Edward Feighan resigned as a director of ours. The resignation of Mr. Feighan was not the result of any disagreement with us on any matter related to our operations, policies or practices.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

Exhibits filed as part of this Current Report are as follows:

<b>Exhibit No.</b>	<b>Description</b>
4.1	Form of 12% Secured Convertible Promissory Note for May 2014 Note Offering
4.2	May 7, 2014 Warrant issued to Rackwise Funding II, LLC
4.3	May 7, 2014 Warrant issued to Richert Funding, LLC
10.1	Form of Subscription Agreement to May 2014 Note Offering
10.2	Security Agreement, dated May 7, 2014, among the Registrant, Visual Network Design, Inc. and Rackwise Funding II, LLC

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**RACKWISE, INC.**

Dated: May 13, 2014

By: /s/ Guy A. Archbold  
Guy A. Archbold  
Chief Executive Officer, President and  
Chairman of the Board

**EXHIBIT 4.1**

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). THESE SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (C) IN COMPLIANCE WITH RULE 144 OR 144A THEREUNDER, IF AVAILABLE, AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, (D) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT, OR (E) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR ANY APPLICABLE STATE SECURITIES LAWS, AND THE HOLDER HAS, PRIOR TO SUCH SALE, FURNISHED TO THE COMPANY AN OPINION OF COUNSEL OR OTHER EVIDENCE OF EXEMPTION, IN EITHER CASE REASONABLY SATISFACTORY TO THE COMPANY. HEDGING TRANSACTIONS INVOLVING THESE SECURITIES MAY NOT BE CONDUCTED UNLESS IN COMPLIANCE WITH THE SECURITIES ACT.

**12% SECURED CONVERTIBLE PROMISSORY NOTE**

**RACKWISE, INC.**

**Due: May \_\_, 2017**

**Original Issue Date: \_\_\_\_\_, 2014**

**US\$ \_\_\_\_\_**

This Secured Convertible Promissory Note is one of a series of duly authorized and issued convertible promissory notes of Rackwise, Inc., a Nevada corporation (the "Company"), designated its 12% Secured Convertible Promissory Notes (the "Note"), issued to **RACKWISE FUNDING II, LLC** (together with its permitted successors and assigns, the "Holder") in accordance with exemptions from registration under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to the Subscription Agreement, dated as of May \_\_, 2014 (the "Subscription Agreement"), entered into between the Company and the Holder. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Subscription Agreement.

**ARTICLE I**

Section 1.01 Principal and Interest. (a) For value received, the Company hereby promises to pay to the order of the Holder, in lawful money of the United States of America and in immediately available funds the principal sum of \_\_\_\_\_ **Dollars (\$ \_\_\_\_\_)** on May \_\_, 2017 (the "Maturity Date").



(b) The Company further promises to pay interest on the unpaid principal amount of this Note at a rate per annum equal to twelve percent (12%), commencing to accrue on the date hereof and payable quarterly in arrears. Interest will be computed on the basis of a 360-day year of twelve 30-day months for the actual number of days elapsed. During the term of the Note, until such time, if ever, that the Company reaches positive cash flow for a minimum of two successive fiscal quarters, interest may be paid-in-kind, at the option of the Company; provided that such option shall be limited to one year worth of payments. Under all other circumstances, interest will be paid in cash.

(c) From and after the occurrence of an Event of Default (as defined in Section 3.01), the interest rate shall be increased to eighteen percent (18%) per annum. Interest due and payable at the default rate shall not be payable in kind. In the event that an Event of Default is subsequently cured, the adjustment referred to in the preceding sentence shall cease to be effective as of the date of such cure; provided that the interest as calculated at such increased rate during the continuance of such Event of Default shall continue to apply to the extent relating to the days after the occurrence of such Event of Default through and including the date of cure of such Event of Default.

(d) The Company may prepay any portion of the principal amount of this Note without penalty upon twenty days prior written notice to Holder.

Section 1.02 Conversion. The Note is convertible at any time prior to maturity, in whole or in part, at the Purchaser's sole option, into units of the Company's securities (the "Units") at a conversion price of \$0.50 (the "Conversion Price") per Unit. Each Unit shall consist of one share (the "Unit Shares") of the Company's common stock, \$0.001 par value per share (the "Common Stock"), and one five year common stock purchase warrant with an exercise price of \$0.625 per share (the "Unit Warrants"). The shares underlying the Unit Warrants are hereinafter referred to as the "Unit Warrant Shares" or the "Warrant Shares").

Section 1.03 Absolute Obligation/Ranking. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, and liquidated damages (if any) on, this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company. This Note ranks pari passu with all other Notes issued pursuant to the Subscription Agreement and senior to all obligations of the Company except for the Permitted Liens.

Section 1.04 Paying Agent and Registrar. Initially, the Company will act as paying agent and registrar. The Company may change any paying agent or registrar, by giving the Holder not less than five (5) business days' written notice of its election to do so, specifying the name, address, telephone number and facsimile number of the paying agent or registrar. Upon an assignment of the Note to the Company, the Company may act as paying agent and registrar without regard to the notice provision provided above.

Section 1.05 Different Denominations; Transfer. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge will be made for such registration of transfer or exchange. This Note and any shares of Common Stock issued upon conversion of this Note may only be offered, sold, assigned or transferred by the Holder without the consent of the Company, provided that the provisions of the Subscription Agreement are complied with in all respects.

Section 1.06 Investment Representations. This Note has been issued subject to certain investment representations of the original Holder set forth in the Subscription Agreement and may be transferred or exchanged only in compliance with the Subscription Agreement and applicable federal and state securities laws and regulations.

Section 1.07 Reliance on Note Register. Prior to due presentment to the Company for transfer or conversion of this Note, the Company and any agent of the Company may treat the person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 1.08 Other Rights. In addition to the rights and remedies given it by this Note and the Subscription Agreement, the Holder shall have all those rights and remedies allowed by applicable laws. The rights and remedies of the Holder are cumulative and recourse to one or more right or remedy shall not constitute a waiver of the others.

## ARTICLE II

### Section 2.01 Certain Adjustments.

(a) Stock Dividends and Splits. If the Company, at any time while this Note is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon conversion of this Note), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon conversion of this Note shall be proportionately adjusted such that the aggregate Conversion Price of this Note shall remain unchanged. Any adjustment made pursuant to this Section 2.01(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification.

(b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 2.01(a) above, if at any time the Company grants, issues or sells any common stock equivalents or rights to purchase stock, Notes, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Note (without regard to any limitations on conversion hereof) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

(c) Pro Rata Distributions. If the Company, at any time while this Note is outstanding, shall distribute to all holders of Common Stock (and not to the Holder) evidences of its indebtedness or assets (including cash and cash dividends) or rights or Notes to subscribe for or purchase any security, then in each such case the Conversion Price shall be adjusted by multiplying the Conversion Price in effect immediately prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction of which the denominator shall be the VWAP determined as of the record date mentioned above, and of which the numerator shall be such VWAP on such record date less the then per share fair market value at such record date of the portion of such assets or evidence of indebtedness or rights or Notes so distributed applicable to one outstanding share of the Common Stock as determined by the Company's board of directors in good faith. In either case the adjustments shall be described in a statement provided to the Holder of the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

(d) Subsequent Equity Sales. (i) If the Company or any subsidiary thereof, as applicable, at any time while this Note is outstanding, shall sell or grant any option to purchase, or sell or grant any right to reprice, or otherwise dispose of or issue (or announce any offer, sale, grant or any option to purchase or other disposition) any Common Stock or Common Stock Equivalents, at an effective price per share less than the Conversion Price then in effect (such lower price, the "New Issuance Price" and such issuances collectively, a "Dilutive Issuance") (it being understood and agreed that if the holder of the Common Stock or Common Stock Equivalents so issued shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to Notes, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is less than the Conversion Price, such issuance shall be deemed to have occurred for less than the Conversion Price on such date of the Dilutive Issuance at such effective price), then simultaneously with the consummation of each Dilutive Issuance the Conversion Price shall be reduced and only reduced by multiplying the Conversion Price by a fraction, the numerator of which is the number of shares of Common Stock issued and outstanding immediately prior to the Dilutive Issuance plus the number of shares of Common Stock which the offering price for such Dilutive Issuance would purchase at the then Conversion Price, and the denominator of which shall be the sum of the number of shares of Common Stock issued and outstanding immediately prior to the Dilutive Issuance plus the number of shares of Common Stock so issued or issuable in connection with the Dilutive Issuance (the "Adjusted Price") (subject to adjustment for stock splits, reverse splits and similar capital adjustments). Such adjustment shall be made whenever such Common Stock or Common Stock Equivalents are issued. Notwithstanding the foregoing, no adjustments shall be made, paid or issued under this Section 2.01(d) in respect of an Exempt Issuance. "Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock. "Exempt Issuance" means the issuance of (a) shares of Common Stock or options under any of the Company's equity incentive plans or to employees, officers, directors or consultants of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose, (b) securities upon the conversion, exercise or exchange of or conversion of any Securities issued hereunder and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Note, (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, (d) shares of Common Stock or options issued pursuant to Form S-8 or (e) securities issued pursuant to Form S-4.

(ii) The Company shall promptly notify the Holder, in writing, following the issuance or deemed issuance of any Common Stock or Common Stock Equivalents subject to this Section 2.01(d), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the "Dilutive Issuance Notice"). For purposes of clarification, whether or not the Company provides a Dilutive Issuance Notice pursuant to this Section 2.01(d), upon the occurrence of any Dilutive Issuance, the Holder is entitled to convert the Note at the Adjusted Price regardless of whether the Holder accurately refers to the Adjusted Price in the Conversion Notice.

(iii) If the purchase or exercise price provided for in any Common Stock Equivalents, or the rate at which any Common Stock Equivalents are convertible into or exercisable or exchangeable for shares of Common Stock increases or decreases at any time, the Conversion Price in effect at the time of such increase or decrease shall be adjusted to the Conversion Price which would have been in effect at such time had such Common Stock Equivalents provided for such increased or decreased purchase price, additional consideration or increased or decreased conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 2.01(d)(iii), if the terms of any Common Stock Equivalents that was outstanding as of the date of issuance of this Note are increased or decreased in the manner described in the immediately preceding sentence, then such Common Stock Equivalents and the shares of Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such increase or decrease.

(iv) No adjustment pursuant to this Section 2.01(d) shall be made if such adjustment would result in an increase of the Conversion Price then in effect.

(e) Calculations. All calculations under this Section 2.01 shall be made to the nearest cent or the nearest 1/100<sup>th</sup> of a share, as the case may be. For purposes of this Section 2.01, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

(f) Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 2.01, the Company shall promptly mail to the Holder a notice setting forth the Conversion Price after such adjustment and any resulting adjustment to the number of shares underlying this Note and setting forth a brief statement of the facts requiring such adjustment.

(g) Authorized Shares. Notwithstanding the provisions of Article I and II hereof, the Company shall not be required to issue any shares upon conversion or make any adjustment if and to the extent that such issuance or adjustment would require the Company to issue a number of Unit Shares or Warrant Shares in excess of its authorized but unissued shares of Common Stock, less all amounts of Common Stock that have been reserved for issue upon the conversion of all outstanding securities convertible into shares of Common Stock and the exercise of all outstanding options, warrants and other rights exercisable for shares of Common Stock. If the Company does not have the requisite number of authorized but unissued shares of Common Stock to make any issuance or adjustment, the Company shall use its commercially best efforts to obtain the necessary stockholder consent to increase the authorized number of shares of Common Stock to make such issuance or adjustment.

### ARTICLE III

Section 3.01 Events of Default. Each of the following events shall constitute a default under this Note (each an “Event of Default”):

- (a) failure by the Company to pay the principal amount when due hereunder within seven (7) business days of receipt of written notice thereof;
- (b) failure by the Company for seven (7) business days after notice to it to comply with any of its other agreements in this Note;

(c) the Company shall: (1) make a general assignment for the benefit of its creditors; (2) apply for or consent to the appointment of a receiver, trustee, assignee, custodian, sequestrator, liquidator or similar official for itself or any of its assets and properties; (3) commence a voluntary case for relief as a debtor under the United States Bankruptcy Code; (4) file with or otherwise submit to any governmental authority any petition, answer or other document seeking: (A) reorganization, (B) an arrangement with creditors or (C) to take advantage of any other present or future applicable law respecting bankruptcy, reorganization, insolvency, readjustment of debts, relief of debtors, dissolution or liquidation; (5) file or otherwise submit any answer or other document admitting or failing to contest the material allegations of a petition or other document filed or otherwise submitted against it in any proceeding under any such applicable law, or (6) be adjudicated a bankrupt or insolvent by a court of competent jurisdiction;

(d) any case, proceeding or other action shall be commenced against the Company for the purpose of effecting, or an order, judgment or decree shall be entered by any court of competent jurisdiction approving (in whole or in part) anything specified in Section 3.01(c) hereof, or any receiver, trustee, assignee, custodian, sequestrator, liquidator or other official shall be appointed with respect to the Company, or shall be appointed to take or shall otherwise acquire possession or control of all or a substantial part of the assets and properties of the Company, and any of the foregoing shall continue unstayed and in effect for any period of sixty (60) days;

(e) except with respect to indebtedness which is outstanding as of the date of this Note, default shall occur with respect to any indebtedness for borrowed money of the Company or under any agreement under which such indebtedness may be issued by the Company and such default shall continue for more than the period of grace, if any, therein specified, if the aggregate amount of such indebtedness for which such default shall have occurred exceeds \$100,000;

(f) except with respect to contractual obligations of the Company which are in default as of the date of this Note, default shall occur with respect to any contractual obligation of the Company under or pursuant to any contract, lease, or other agreement to which the Company is a party and such default shall continue for more than the period of grace, if any, therein specified, if the aggregate amount of the Company’s contractual liability arising out of such default exceeds or is reasonably estimated to exceed \$100,000;

(g) except with respect to outstanding judgments against the Company as of the date of this Note, final judgment for the payment of money in excess of \$100,000 shall be rendered against the Company and the same shall remain undischarged for a period of thirty (30) days during which execution shall not be effectively stayed;

(h) except with respect to events of default by the Company with regard to Permitted Liens, as such term is defined in the Subscription Agreement, any event of default of the Company under any agreement, note, mortgage, security agreement or other instrument evidencing or securing indebtedness that ranks senior in priority to, or pari passu with, the obligations under this Note and the Subscription Agreement;

(i) any material breach by the Company of any of its representations or warranties under the Subscription Agreement; or

(j) any material default, whether in whole or in part, shall occur in the due observance or performance of any obligations or other covenants, terms or provisions to be performed under this Note or the Subscription Agreement which is not cured by the Company within five (5) business days after receipt of written notice thereof.

Section 3.02 If any Event of Default specified in clauses 3.01(c) or (d) occurs, then the full principal amount of this Note, together with any other amounts owing in respect thereof, to the date of the Event of Default, shall become immediately due and payable without any action on the part of the Holder, and if any other Event of Default occurs, the full principal amount of this Note, together with any other amounts owing in respect thereof, to the date of acceleration shall become, at the Holder's election, immediately due and payable in cash. The Holder need not provide, and the Company hereby waives, any presentment, demand, protest or other notice of any kind, and the Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such declaration may be rescinded and annulled by the Holder at any time prior to payment hereunder and the Holder shall have all rights as a Note holder until such time, if any, as the full payment under this Section shall have been received by it. No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

#### ARTICLE IV

Section 4.01 Negative Covenants. So long as this Note shall remain in effect and until any outstanding principal and interest and all fees and all other expenses or amounts payable under this Note and the Subscription Agreement have been paid in full, unless all Holders shall otherwise consent in writing, the Company shall not:

(a) Senior or Pari Passu Indebtedness. Incur, create, assume, guaranty or permit to exist any indebtedness other than indebtedness to the Company's present factor, that ranks senior in priority to, or pari passu with, the obligations under this Note and the Subscription Agreement, except for (i) Permitted Liens and (ii) indebtedness created as a result of a subsequent financing if the gross proceeds to the Company of such financing are equal to or greater than the aggregate principal amount of the Notes and the Notes are repaid in full upon the closing of such financing.

(b) Liens. Create, incur, assume or permit to exist any lien on any property or assets (including stock or other securities of the Company) now owned or hereafter acquired by it or on any income or revenues or rights in respect of any thereof, except:

(i) liens on property or assets of the Company existing on the date hereof, provided that such liens shall secure only those obligations which they secure on the date hereof;

(ii) any lien created under this Note or the Subscription Agreement;

(iii) any lien existing on any property or asset prior to the acquisition thereof by the Company, provided that

1) such lien is not created in contemplation of or in connection with such acquisition and

2) such lien does not apply to any other property or assets of the Company;

(iv) liens for taxes, assessments and governmental charges;

(v) carriers', warehousemen's, mechanics', materialmen's, repairmen's, landlord's or other like liens arising in the ordinary course of business and securing obligations that are not due and payable;

(vi) pledges and deposits made in the ordinary course of business in compliance, with workmen's compensation, unemployment insurance and other social security laws or regulations;

(vii) deposits to secure the performance of bids, trade contracts (other than for indebtedness), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(viii) zoning restrictions, easements, licenses, covenants, conditions, rights-of-way, restrictions on use of real property and other similar encumbrances incurred in the ordinary course of business and minor irregularities of title that, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of the Company;



(ix) purchase money security interests in real property, improvements thereto or equipment hereafter acquired (or, in the case of improvements, constructed) by the Company, provided that

- 1) such security interests secure indebtedness permitted by this Note,
- 2) such security interests are incurred, and the indebtedness secured thereby is created, within 90 days after such acquisition (or construction),
- 3) the indebtedness secured thereby does not exceed 85% of the lesser of the cost or the fair market value of such real property, improvements or equipment at the time of such acquisition (or construction) and
- 4) such security interests do not apply to any other property or assets of the Company;

(x) liens arising out of judgments or awards (other than any judgment that constitutes an Event of Default hereunder) in respect of which the Company shall in good faith be prosecuting an appeal or proceedings for review and in respect of which it shall have secured a subsisting stay of execution pending such appeal or proceedings for review, provided the Company shall have set aside on its books adequate reserves with respect to such judgment or award; and

(xi) deposits, liens or pledges to secure payments of workmen's compensation and other payments, public liability, unemployment and other insurance, old-age pensions or other social security obligations, or the performance of bids, tenders, leases, contracts (other than contracts for the payment of money), public or statutory obligations, surety, stay or appeal bonds, or other similar obligations arising in the ordinary course of business.

(c) Dividends and Distributions. In the case of the Company, declare or pay, directly or indirectly, any dividend or make any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any shares of its capital stock or directly or indirectly redeem, purchase, retire or otherwise acquire for value any shares of any class of its capital stock or set aside any amount for any such purpose.

(d) Limitation on Certain Payments and Prepayments.

(i) Except pursuant to the Transaction Documents, pay in cash any amount in respect of any indebtedness or preferred stock that may at the obligor's option be paid in kind or in other securities; or

(ii) Optionally prepay, repurchase or redeem or otherwise defease or segregate funds with respect to any indebtedness of the Company, other than for indebtedness evidenced by Permitted Liens, indebtedness under this Note or the Subscription Agreement.

#### ARTICLE V

Section 5.01 Security; Other Rights. The obligations of the Company to the Holder under this Note are secured pursuant to the Subscription Agreement and the Security Agreement. In addition to the rights and remedies given it by the Subscription Agreement, the Note and the Security Agreement, the Holder shall have all those rights and remedies allowed by applicable laws. The rights and remedies of the Holder are cumulative and recourse to one or more right or remedy shall not constitute a waiver of the others.

#### ARTICLE VI

Section 6.01 Notice. Notices regarding this Note shall be sent to the parties at the following addresses, unless a party notifies the other parties, in writing, of a change of address:

If to the Company, to: Rackwise, Inc.  
2365 Iron Point Road, Suite 190  
Folsom, CA 95630  
Attention: Guy A. Archbold, Chairman and CEO  
Facsimile: 415-358-4665

With a copy to: Gottbetter & Partners, LLP  
488 Madison Avenue, 12<sup>th</sup> Floor  
New York, NY 10022  
Attention: Adam S. Gottbetter, Esq.  
Facsimile: 212-400-6901

If to the Holder: At the address set forth in the Subscription Agreement

Section 6.02 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by and construed and enforced in accordance with the internal laws of the State of Colorado, without regard to the principles of conflicts of law thereof. Each party agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by any of the Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of Denver, Colorado (the "Colorado Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the Colorado Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, or such Colorado Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Note and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Note or the transactions contemplated hereby. If either party shall commence an action or proceeding to enforce any provisions of this Note, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorney's fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

Section 6.03 Severability. The invalidity of any of the provisions of this Note shall not invalidate or otherwise affect any of the other provisions of this Note, which shall remain in full force and effect.

Section 6.04 Entire Agreement and Amendments. This Note, together with the Subscription Agreement, represents the entire agreement between the parties hereto with respect to the subject matter hereof and there are no representations, warranties or commitments, except as set forth herein. This Note may be amended only by an instrument in writing executed by the parties hereto.

Section 6.05 Cancellation. After all Principal, accrued Interest and other amounts at any time owed on this Note has been paid in full, this Note shall automatically be deemed canceled, shall be surrendered to the Company for cancellation and shall not be reissued.

Section 6.06 Construction; Headings. This Note shall be deemed to be jointly drafted by the Company and all the Purchasers and shall not be construed against any person as the drafter hereof. The headings of this Note are for convenience of reference and shall not form part of, or affect the interpretation of, this Note.

Section 6.07 Payment of Collection, Enforcement and Other Costs. If (a) this Note is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or the Holder otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note or (b) there occurs any bankruptcy, reorganization, receivership of the Company or other proceedings affecting Company creditors' rights and involving a claim under this Note, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, but not limited to, attorneys' fees and disbursements.

Section 6.08 Noncircumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its Articles of Incorporation, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, and will at all times in good faith carry out all of the provisions of this Note and take all action as may be required to protect the rights of the Holder of this Note. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any shares of Common Stock receivable upon conversion of this Note above the Conversion Price then in effect, (ii) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock upon the conversion of this Note, and (iii) shall, so long as any of the Notes are outstanding, take all action necessary to reserve and keep available out of its authorized and unissued shares of Common Stock, solely for the purpose of effecting the conversion of the Notes, the maximum number of shares of Common Stock as shall from time to time be necessary to effect the conversion of the Notes then outstanding (without regard to any limitations on conversion).

Section 6.09 Amendments and Waiver of Default. The Note may not be amended without the consent of the Holder.

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF**, with the intent to be legally bound hereby, the Company as executed this Note as of the date first written above.

**RACKWISE, INC.**

By: \_\_\_\_\_

Name: Guy A. Archbold

Title: Chief Executive Officer and President

**EXHIBIT 4.2**

**NEITHER THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES ISSUABLE UPON THE EXERCISE OF THIS WARRANT HAVE BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS, AND NEITHER SUCH SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, ASSIGNED OR OTHERWISE TRANSFERRED UNLESS (1) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR (2) AN EXEMPTION FROM SUCH REGISTRATION EXISTS AND THE COMPANY RECEIVES AN OPINION OF COUNSEL TO THE HOLDER OF SUCH SECURITIES, WHICH COUNSEL AND OPINION ARE SATISFACTORY TO THE COMPANY, THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR TRANSFERRED IN THE MANNER CONTEMPLATED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS.**

Effective Date: May 7, 2014

Void After: May 6, 2019

**RACKWISE, INC.****WARRANTS TO PURCHASE COMMON STOCK**

Rackwise, Inc., a Nevada corporation (the "Company"), for value received on May 7, 2014 (the "Effective Date"), hereby issues to **RACKWISE FUNDING II, LLC** (the "Holder" or "Warrant Holder") One Million Four Hundred Forty-Eight Thousand Four Hundred (1,448,400) Warrants (collectively, the "Warrant") to purchase an aggregate of One Million Four Hundred Forty-Eight Thousand Four Hundred (1,448,400) shares, (each such share as from time to time adjusted as hereinafter provided being a "Warrant Share" and all such shares being the "Warrant Shares") of the Company's Common Stock (as defined below), at the Exercise Price (as defined below), as adjusted from time to time as provided herein, on or before May 6, 2019 (the "Expiration Date"), all subject to the following terms and conditions.

As used in this Warrant, (i) "Business Day" means any day other than Saturday, Sunday or any other day on which commercial banks in the City of New York, New York, are authorized or required by law or executive order to close; (ii) "Common Stock" means the common stock of the Company, par value \$0.0001 per share, including any securities issued or issuable with respect thereto or into which or for which such shares may be exchanged for, or converted into, pursuant to any stock dividend, stock split, stock combination, recapitalization, reclassification, reorganization or other similar event; (iii) "Exercise Price" means \$0.01 per share of Common Stock, subject to adjustment as provided herein; (iv) "Trading Day" means any day on which the Common Stock is traded (or available for trading) on its principal trading market; (v) "Affiliate" means any person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, a person, as such terms are used and construed in Rule 144 promulgated under the U.S. Securities Act of 1933, as amended (the "Securities Act") and (vi) "Warrantholder" means the holder of this Warrant.

**1. DURATION AND EXERCISE OF WARRANTS**

(a) Exercise Period. The Holder may exercise this Warrant at any time after the maturity date for the Note, in whole or in part, on any Business Day on or before 5:00 P.M., Eastern Time, on the Expiration Date, at which time this Warrant shall become void and of no value.

(b) Exercise Procedures.

(i) While this Warrant remains outstanding and exercisable in accordance with Section 1(a), in addition to the manner set forth in Section 1(b)(ii) below, the Holder may exercise this Warrant in whole or in part at any time and from time to time by:

(A) delivery to the Company of a duly executed copy of the Notice of Exercise attached as Exhibit A;

(B) surrender of this Warrant to the Secretary of the Company at its principal offices or at such other office or agency as the Company may specify in writing to the Holder; and

(C) payment of the then-applicable Exercise Price per share multiplied by the number of Warrant Shares being purchased upon exercise of the Warrant (such amount, the "Aggregate Exercise Price") made in the form of cash, or by certified check, bank draft or money order payable in lawful money of the United States of America.

(ii) In addition to the provisions of Section 1(b)(i) above, the Holder may, in its sole discretion, exercise all or any part of the Warrant in a "cashless" or "net-issue" exercise (a "Cashless Exercise") by delivering to the Company (1) the Notice of Exercise and (2) the original Warrant, pursuant to which the Holder shall surrender the right to receive upon exercise of this Warrant, a number of Warrant Shares having a value (as determined below) equal to the Aggregate Exercise Price, in which case, the number of Warrant Shares to be issued to the Holder upon such exercise shall be calculated using the following formula:

$$X = \frac{Y * (A - B)}{A}$$

with:

X = the number of Warrant Shares to be issued to the Holder

Y = the number of Warrant Shares with respect to which the Warrant is being exercised

A = the fair value per share of Common Stock on the date of exercise of this Warrant

B = the then-current Exercise Price of the Warrant

Solely for the purposes of this paragraph, "fair value" per share of Common Stock shall mean the average Closing Price (as defined below) per share of Common Stock for the twenty (20) trading days immediately preceding the date on which the Notice of Exercise is deemed to have been sent to the Company. "Closing Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market or any other national securities exchange, the closing price per share of the Common Stock for such date (or the nearest preceding date) on the primary eligible market or exchange on which the Common Stock is then listed or quoted; (b) if prices for the Common Stock are then quoted on OTC Markets, the closing bid price per share of the Common Stock for such date (or the nearest preceding date) so quoted; or (c) if prices for the Common Stock are then reported in the "Pink Sheets" published by the National Quotation Bureau Incorporated (or a similar organization or agency succeeding to its functions of reporting prices), the most recent closing bid price per share of the Common Stock so reported. If the Common Stock is not publicly traded as set forth above, the "fair value" per share of Common Stock shall be reasonably and in good faith determined by the Board of Directors of the Company as of the date which the Notice of Exercise is deemed to have been sent to the Company.

For purposes of Rule 144 promulgated under the Securities Act, it is intended, understood and acknowledged that the Warrant Shares issued in a cashless exercise transaction shall be deemed to have been acquired by the Holder, and the holding period for such shares shall be deemed to have commenced, on the date this Warrant was originally issued.

(iii) Upon the exercise of this Warrant in compliance with the provisions of this Section 1(b), the Company shall promptly issue and cause to be delivered to the Holder a certificate for the Warrant Shares purchased by the Holder. Each exercise of this Warrant shall be effective immediately prior to the close of business on the date (the "Date of Exercise") that the conditions set forth in Section 1(b) have been satisfied, as the case may be. On the first Business Day following the date on which the Company has received each of the properly completed Notice of Exercise and the Aggregate Exercise Price in cleared funds (the "Exercise Delivery Documents"), the Company shall transmit an acknowledgment of receipt of the Exercise Delivery Documents to the Company's transfer agent (the "Transfer Agent"). On or before the fifth Business Day following the date on which the Company has received all of the Exercise Delivery Documents (the "Share Delivery Date"), the Company shall use its best efforts to cause its transfer agent to issue and dispatch by certified or registered mail or overnight courier (at the Holder's cost) to the address as specified in the Notice of Exercise, a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder is entitled pursuant to such exercise.

(c) Partial Exercise. This Warrant shall be exercisable, either in its entirety or, from time to time, for part only of the number of Warrant Shares referenced by this Warrant. If this Warrant is submitted in connection with any exercise pursuant to Section 1 and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the actual number of Warrant Shares being acquired upon such an exercise, then the Company shall as soon as practicable and in no event later than seven (7) Business Days after any exercise and at its own expense, issue a new Warrant of like tenor representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised.



(d) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall promptly issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 16.

## 2. ISSUANCE OF WARRANT SHARES

(a) The Company covenants that all Warrant Shares will, upon issuance in accordance with the terms of this Warrant, be (i) duly authorized, fully paid and non-assessable, and (ii) free from all liens, charges and security interests, with the exception of claims arising through the acts or omissions of any Holder and except as arising from applicable Federal and state securities laws.

(b) The Company shall register this Warrant upon records to be maintained by the Company for that purpose in the name of the record holder of such Warrant from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner thereof for the purpose of any exercise thereof, any distribution to the Holder thereof and for all other purposes.

(c) The Company will not, by amendment of its Articles of Incorporation, By-laws or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all the provisions of this Warrant and in the taking of all action necessary or appropriate in order to protect the rights of the Holder to exercise this Warrant, or against impairment of such rights.

## 3. ADJUSTMENTS OF EXERCISE PRICE, NUMBER AND TYPE OF WARRANT SHARES

(a) The Exercise Price and the number of shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time upon the occurrence of certain events described in this Section 3; provided, that notwithstanding the provisions of this Section 3, the Company shall not be required to make any adjustment if and to the extent that such adjustment would require the Company to issue a number of shares of Common Stock in excess of its authorized but unissued shares of Common Stock, less all amounts of Common Stock that have been reserved for issue upon the conversion of all outstanding securities convertible into shares of Common Stock and the exercise of all outstanding options, warrants and other rights exercisable for shares of Common Stock. If the Company does not have the requisite number of authorized but unissued shares of Common Stock to make any adjustment, the Company shall use its commercially best efforts to obtain the necessary stockholder consent to increase the authorized number of shares of Common Stock to make such an adjustment pursuant to this Section 3.

(i) Subdivision or Combination of Stock. In case the Company shall at any time subdivide (whether by way of stock dividend, stock split or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision shall be proportionately reduced and the number of Warrant Shares shall be proportionately increased, and conversely, in case the outstanding shares of Common Stock of the Company shall be combined (whether by way of stock combination, reverse stock split or otherwise) into a smaller number of shares, the Exercise Price in effect immediately prior to such combination shall be proportionately increased and the number of Warrant Shares shall be proportionately decreased. The Exercise Price and the Warrant Shares, as so adjusted, shall be readjusted in the same manner upon the happening of any successive event or events described in this Section 3(a)(i).

(ii) Reorganization, Reclassification, Consolidation, Merger or Sale.

(A) If any recapitalization, reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another corporation, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that there is no "Change of Control" of the Company (as hereafter defined) and holders of Common Stock shall be entitled to receive stock, securities, or other assets or property in exchange for their Common Stock (an "Organic Change"), then, as a condition of such Organic Change, lawful and adequate provisions shall be made by the Company whereby the Holder hereof shall thereafter have the right to purchase and receive (in lieu of the shares of the Common Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the rights represented by this Warrant) such shares of stock, securities or other assets or property as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Common Stock equal to the number of shares of such stock immediately theretofore purchasable and receivable assuming the full exercise of the rights represented by this Warrant. In the event of any Organic Change, appropriate provision shall be made by the Company with respect to the rights and interests of the Holder of this Warrant to the end that the provisions hereof (including, without limitation, registration rights) shall thereafter be applicable, in relation to any shares of stock or securities thereafter deliverable upon the exercise hereof. The Company will not effect any such Organic Change unless, prior to the consummation thereof, the successor corporation (if other than the Company) resulting from such Organic Change purchasing such assets shall assume by written instrument reasonably satisfactory in form and substance to the then holders of a majority of the Warrants issued in the Offering executed and mailed or delivered to the registered Holder hereof at the last address of such Holder appearing on the books of the Company, the obligation to deliver to such Holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such Holder may be entitled to purchase.

(B) Except as otherwise provided herein, if any recapitalization, reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another corporation, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that there is a "Change of Control" of the Company (as hereafter defined) and holders of Common Stock shall be entitled to receive stock, securities, or other assets or property in exchange for their Common Stock (a "Control Change"), then, the Holder shall be required to accept the net value of the Warrant (the fair market value less the exercise price) in exchange for the cancellation of the Warrant. Such consideration shall be paid to the Holder at the same time as the consideration from the Control Change is paid to the holders of the Company's Common Stock. As a condition of such Control Change, the Company shall be required to comply with subsection (C) below. "Change of Control" shall mean (i) the acquisition by any person or group (as that term is defined in the Act and the rules promulgated thereunder) in a single transaction or a series of transactions of 30% or more in voting power of the Common Stock of the Company; (ii) a sale of substantially all of the assets of the Company to an entity that is not a subsidiary or the Company; (iii) a merger, consolidation or reorganization involving the Company, following which the current stockholders of the Company as of the date hereof (the "Current Stockholders") will not have voting power with respect to at least 50% of the voting securities entitled to vote generally in the election of directors of the surviving entity; or (iv) the consummation of a sale by the Current Stockholders to a third party (the "Acquiring Party") of some or all of the shares of Common Stock held by the Current Stockholders, which sale results in the Current Stockholders having voting power with respect to less than 50% of the voting securities entitled to vote in the election of directors of the Company.

(C) If there is an Organic Change or a Control Change, then the Company shall cause to be mailed to the Holder at its last address as it shall appear on the books and records of the Company, at least 10 calendar days before the effective date of the Organic Change or the Control Change, a notice stating the date on which such Organic Change or Control Change is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares for securities, cash, or other property delivered upon such Organic Change or Control Change; provided, that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. The Holder is entitled to exercise this Warrant during the 10-day period commencing on the date of such notice to the effective date of the event triggering such notice. In any event, the successor corporation (if other than the Company) resulting from an Organic Change (but not from a Control Change) shall be deemed to assume such obligation to deliver to such Holder such shares of stock, securities or assets even in the absence of a written instrument assuming such obligation to the extent such assumption occurs by operation of law.

(b) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment pursuant to this Section 3, the Company at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each Holder of this Warrant a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The certificate shall also set forth the number of shares and the amount, if any, of other property which at the time would be received upon the exercise of the Warrant.

(c) Certain Events. If any event occurs as to which the other provisions of this Section 3 are not strictly applicable but the lack of any adjustment would not fairly protect the purchase rights of the Holder under this Warrant in accordance with the basic intent and principles of such provisions, or if strictly applicable would not fairly protect the purchase rights of the Holder under this Warrant in accordance with the basic intent and principles of such provisions, then the Company's Board of Directors will, in good faith, make an appropriate adjustment to protect the rights of the Holder; provided, that no such adjustment pursuant to this Section 3(c) will increase the Exercise Price or decrease the number of Warrant Shares except as otherwise determined pursuant to this Section 3.

(d) Adjustment of Exercise Price Upon Issuance of Additional Shares of Common Stock. In the event the Company shall at any time prior to the Expiration Date issue Additional Shares of Common Stock, as defined below, without consideration or for a consideration per share less than the Exercise Price (as such amount may be adjusted just prior to such issue pursuant to this Section 3), then the Exercise Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Exercise Price by a fraction, (A) the numerator of which shall be (1) the number of shares of Common Stock outstanding immediately prior to such issue plus (2) the number of shares of Common Stock which the aggregate consideration received or to be received by the Company for the total number of Additional Shares of Common Stock so issued would purchase at such Exercise Price; and (B) the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common Stock so issued; provided that, (i) for the purpose of this Section 3(d), all shares of Common Stock issuable upon conversion or exchange of convertible securities outstanding immediately prior to such issue shall be deemed to be outstanding, and (ii) the number of shares of Common Stock deemed issuable upon conversion or exchange of such outstanding convertible securities shall be determined without giving effect to any adjustments to the conversion or exchange price or conversion or exchange rate of such convertible securities resulting from the issuance of Additional Shares of Common Stock that is the subject of this calculation. For purposes of this Warrant, "Additional Shares of Common Stock" shall mean all shares of Common Stock issued by the Company after the Effective Date (including without limitation any shares of Common Stock issuable upon conversion or exchange of any convertible securities or upon exercise of any option or warrant, on an as-converted basis), other than: (i) shares of Common Stock issued or issuable upon conversion or exchange of any convertible securities or exercise of any options or warrants outstanding on the Effective Date; (ii) shares of Common Stock issued or issuable by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Sections 3(a) above; (iii) shares of Common Stock (or options with respect thereto) issued or issuable to employees or directors of, or consultants to, the Company or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors of the Company including, but not limited to, the Company's equity incentive plans described in the Company's SEC Filings; (iv) any securities issued or issuable by the Company pursuant to the this Warrant; (v) securities issued pursuant to acquisitions or strategic transactions approved by a majority of disinterested directors of the Company, provided that any such issuance shall only be to a person which is, itself or through its subsidiaries, an operating company in a business synergistic with the business of the Company and in which the Company receives benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities; and (vi) securities issued to financial institutions, institutional investors or lessors in connection with credit arrangements, equipment financings or similar transactions approved by a majority of disinterested directors of the Company. The provisions of this Section 3(d) shall not operate to increase the Exercise Price.

Upon each adjustment of the Exercise Price pursuant to the provisions of this Section 3(d), the number of Warrant Shares issuable upon exercise of this Warrant shall be adjusted by multiplying a number equal to the Exercise Price in effect immediately prior to such adjustment by the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such adjustment and dividing the product so obtained by the adjusted Exercise Price.

(e) Notwithstanding the provisions of this Section 3, the Company shall not be required to make any adjustment if and to the extent that such adjustment would require the Company to issue a number of Warrant Shares in excess of its authorized but unissued shares of Common Stock, less all amounts of Common Stock that have been reserved for issue upon the conversion of all outstanding securities convertible into shares of Common Stock and the exercise of all outstanding options, warrants and other rights exercisable for shares of Common Stock. If the Company does not have the requisite number of authorized but unissued shares of Common Stock to make any adjustment, the Company shall use its commercially best efforts to obtain the necessary stockholder consent to increase the authorized number of shares of Common Stock to make such an adjustment pursuant to this Section 3.

#### 4. TRANSFERS AND EXCHANGES OF WARRANT AND WARRANT SHARES

(a) Registration of Transfers and Exchanges. Subject to Section 4(c) of this Warrant, upon the Holder's surrender of this Warrant, with a duly executed copy of the Form of Assignment attached hereto as Exhibit B, to the Secretary of the Company at its principal offices or at such other office or agency as the Company may specify in writing to the Holder, the Company shall register the transfer of all or any portion of this Warrant. Upon such registration of transfer, the Company shall issue a new Warrant, in substantially the form of this Warrant, evidencing the acquisition rights transferred to the transferee and a new Warrant, in similar form, evidencing the remaining acquisition rights not transferred, to the Holder requesting the transfer.

(b) Warrant Exchangeable for Different Denominations. The Holder may exchange this Warrant for a new Warrant or Warrants, in substantially the form of this Warrant, evidencing in the aggregate the right to purchase the number of Warrant Shares which may then be purchased hereunder, each of such new Warrants to be dated the date of such exchange and to represent the right to purchase such number of Warrant Shares as shall be designated by the Holder. The Holder shall surrender this Warrant with duly executed instructions regarding such re-certification of this Warrant to the Secretary of the Company at its principal offices or at such other office or agency as the Company may specify in writing to the Holder.

(c) Restrictions on Transfers. This Warrant may not be transferred at any time without (i) registration under the Securities Act or (ii) an exemption from such registration and a written opinion of legal counsel addressed to the Company that the proposed transfer of the Warrant may be effected without registration under the Securities Act, which opinion will be in form and from counsel reasonably satisfactory to the Company.

#### 5. MUTILATED OR MISSING WARRANT CERTIFICATE

If this Warrant is mutilated, lost, stolen or destroyed, upon request by the Holder, the Company will, at its expense, issue, in exchange for and upon cancellation of the mutilated Warrant, or in substitution for the lost, stolen or destroyed Warrant, a new Warrant, in substantially the form of this Warrant, representing the right to acquire the equivalent number of Warrant Shares; provided, that, as a prerequisite to the issuance of a substitute Warrant, the Company may require satisfactory evidence of loss, theft or destruction as well as an indemnity from the Holder of a lost, stolen or destroyed Warrant.

#### 6. PAYMENT OF TAXES

The Company will pay all transfer and stock issuance taxes attributable to the preparation, issuance and delivery of this Warrant and the Warrant Shares (and replacement Warrants) including, without limitation, all documentary and stamp taxes; provided, however, that the Company shall not be required to pay any tax in respect of the transfer of this Warrant, or the issuance or delivery of certificates for Warrant Shares or other securities in respect of the Warrant Shares to any person or entity other than to the Holder.

**7. FRACTIONAL WARRANT SHARES**

No fractional Warrant Shares shall be issued upon exercise of this Warrant. The Company, in lieu of issuing any fractional Warrant Share, shall round down the aggregate number of Warrant Shares issuable to a Holder to the nearest whole share.

**8. NO STOCK RIGHTS AND LEGEND**

No holder of this Warrant, as such, shall be entitled to vote or be deemed the holder of any other securities of the Company that may at any time be issuable on the exercise hereof, nor shall anything contained herein be construed to confer upon the holder of this Warrant, as such, the rights of a stockholder of the Company or the right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or give or withhold consent to any corporate action or to receive notice of meetings or other actions affecting stockholders (except as provided herein), or to receive dividends or subscription rights or otherwise (except as provide herein).

Each certificate for Warrant Shares initially issued upon the exercise of this Warrant, and each certificate for Warrant Shares issued to any subsequent transferee of any such certificate, shall be stamped or otherwise imprinted with a legend in substantially the following form:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE SECURITIES LAWS, AND NEITHER SUCH SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR OTHERWISE TRANSFERRED UNLESS (1) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR (2) AN EXEMPTION FROM SUCH REGISTRATION EXISTS AND THE COMPANY RECEIVES AN OPINION OF COUNSEL TO THE HOLDER OF SUCH SECURITIES, WHICH COUNSEL AND OPINION ARE REASONABLY SATISFACTORY TO THE COMPANY, THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR TRANSFERRED IN THE MANNER CONTEMPLATED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS.”

**9. NOTICES**

All notices, consents, waivers, and other communications under this Warrant must be in writing and will be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile or e-mail with confirmation of transmission by the transmitting equipment; (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, if to the registered Holder hereof; or (d) seven days after the placement of the notice into the mails (first class postage prepaid), to the Holder at the address, facsimile number, or e-mail address furnished by the registered Holder to the Company, or if to the Company, to it at 2365 Iron Point Road, Suite 190, Folsom, CA 95630, Attention: Chief Executive Officer (or to such other address, facsimile number, or e-mail address as the Holder or the Company as a party may designate by notice the other party) with a copy to Gottbetter & Partners, LLP, 488 Madison Avenue, 12<sup>th</sup> Floor, New York, NY 10022, Attention: Adam S. Gottbetter, Esq.

**10. SEVERABILITY**

If a court of competent jurisdiction holds any provision of this Warrant invalid or unenforceable, the other provisions of this Warrant will remain in full force and effect. Any provision of this Warrant held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

**11. BINDING EFFECT**

This Warrant shall be binding upon and inure to the sole and exclusive benefit of the Company, its successors and assigns, and the registered Holder or Holders from time to time of this Warrant and the Warrant Shares.

**12. SURVIVAL OF RIGHTS AND DUTIES**

This Warrant shall terminate and be of no further force and effect on the earlier of 5:00 p.m. Eastern Time, on the Expiration Date or the date on which this Warrant has been exercised in full.

**13. GOVERNING LAW**

This Warrant will be governed by and construed under the laws of the State of Colorado without regard to conflicts of laws principles that would require the application of any other law.

**14. DISPUTE RESOLUTION**

In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within two Business Days of receipt of the Notice of Exercise giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation of the Exercise Price or the Warrant Shares within three Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two Business Days, submit via facsimile (a) the disputed determination of the Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company shall cause at its expense the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

**15. NOTICES OF RECORD DATE**

Upon (a) any establishment by the Company of a record date of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or right or option to acquire securities of the Company, or any other right, or (b) any capital reorganization, reclassification, recapitalization, merger or consolidation of the Company with or into any other corporation, any transfer of all or substantially all the assets of the Company, or any voluntary or involuntary dissolution, liquidation or winding up of the Company, or the sale, in a single transaction, of a majority of the Company's voting stock (whether newly issued, or from treasury, or previously issued and then outstanding, or any combination thereof), the Company shall mail to the Holder at least ten (10) Business Days, or such longer period as may be required by law, prior to the record date specified therein, a notice specifying (i) the date established as the record date for the purpose of such dividend, distribution, option or right and a description of such dividend, option or right, (ii) the date on which any such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up, or sale is expected to become effective and (iii) the date, if any, fixed as to when the holders of record of Common Stock shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up.

**16. RESERVATION OF SHARES**

Subject to Section 3(e) of this Warrant, the Company shall reserve and keep available out of its authorized but unissued shares of Common Stock for issuance upon the exercise of this Warrant, free from pre-emptive rights, such number of shares of Common Stock for which this Warrant shall from time to time be exercisable. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation. Subject to Section 3(e) of this Warrant, without limiting the generality of the foregoing, the Company covenants that it will use commercially reasonable efforts to take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and use commercially reasonable efforts to obtain all such authorizations, exemptions or consents, including but not limited to consents from the Company's stockholders or Board of Directors or any public regulatory body, as may be necessary to enable the Company to perform its obligations under this Warrant.

**17. NO THIRD PARTY RIGHTS**

This Warrant is not intended, and will not be construed, to create any rights in any parties other than the Company and the Holder, and no person or entity may assert any rights as third-party beneficiary hereunder.

*[Signature page follows]*



IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed as of the date first set forth above.

**RACKWISE, INC.**

By: /s/ Guy A. Archbold

Name: Guy A. Archbold

Title: President and Chief Executive Officer

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[SIGNATURE PAGE TO RACKWISE FUNDING II, LLC WARRANT CERTIFICATE]

**EXHIBIT A**

**NOTICE OF EXERCISE**

(To be executed by the Holder of Warrant if such Holder desires to exercise Warrant)

To Rackwise, Inc.:

The undersigned hereby irrevocably elects to exercise this Warrant and to purchase thereunder, \_\_\_\_\_ shares of Rackwise, Inc. common stock issuable upon exercise of the Warrant and delivery of (i) \$\_\_\_\_\_ (in cash as provided for in the foregoing Warrant) and any applicable taxes payable by the undersigned pursuant to such Warrant; or (ii) \_\_\_\_\_ shares of Common Stock (pursuant to a Cashless Exercise in accordance with Section 1(b)(ii) of this Warrant).

The undersigned requests that certificates for such shares be issued in the name of:

(Please print name, address and social security or federal employer identification number (if applicable))

\_\_\_\_\_  
\_\_\_\_\_

If the shares issuable upon this exercise of the Warrant are not all of the Warrant Shares which the Holder is entitled to acquire upon the exercise of the Warrant, the undersigned requests that a new Warrant evidencing the rights not so exercised be issued in the name of and delivered to:

(Please print name, address and social security or federal employer identification number (if applicable))

\_\_\_\_\_  
\_\_\_\_\_

Name of Holder (print): \_\_\_\_\_  
(Signature): \_\_\_\_\_  
(By:): \_\_\_\_\_  
(Title:): \_\_\_\_\_  
Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT B**

**FORM OF ASSIGNMENT**

FOR VALUE RECEIVED, \_\_\_\_\_ hereby sells, assigns and transfers to each assignee set forth below all of the rights of the undersigned under the Warrant (as defined in and evidenced by the attached Warrant) to acquire the number of Warrant Shares set opposite the name of such assignee below and in and to the foregoing Warrant with respect to said acquisition rights and the shares issuable upon exercise of the Warrant:

Name of Assignee	Address	Number of Shares
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If the total of the Warrant Shares are not all of the Warrant Shares evidenced by the foregoing Warrant, the undersigned requests that a new Warrant evidencing the right to acquire the Warrant Shares not so assigned be issued in the name of and delivered to the undersigned.

Name of Holder (print): \_\_\_\_\_  
(Signature): \_\_\_\_\_  
(By:): \_\_\_\_\_  
(Title:): \_\_\_\_\_  
Dated: \_\_\_\_\_

**EXHIBIT 4.3**

**NEITHER THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES ISSUABLE UPON THE EXERCISE OF THIS WARRANT HAVE BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS, AND NEITHER SUCH SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, ASSIGNED OR OTHERWISE TRANSFERRED UNLESS (1) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR (2) AN EXEMPTION FROM SUCH REGISTRATION EXISTS AND THE COMPANY RECEIVES AN OPINION OF COUNSEL TO THE HOLDER OF SUCH SECURITIES, WHICH COUNSEL AND OPINION ARE SATISFACTORY TO THE COMPANY, THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR TRANSFERRED IN THE MANNER CONTEMPLATED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS.**

Effective Date: May 7, 2014

Void After: May 6, 2019

**RACKWISE, INC.****WARRANTS TO PURCHASE COMMON STOCK**

Rackwise, Inc., a Nevada corporation (the "Company"), for value received on May 7, 2014 (the "Effective Date"), hereby issues to **RICHERT FUNDING LLC** (the "Holder" or "Warrant Holder") Seventy-Two Thousand Four Hundred Twenty (72,420) Warrants (collectively, the "Warrant") to purchase an aggregate of Seventy-Two Thousand Four Hundred Twenty (72,420) shares, (each such share as from time to time adjusted as hereinafter provided being a "Warrant Share" and all such shares being the "Warrant Shares") of the Company's Common Stock (as defined below), at the Exercise Price (as defined below), as adjusted from time to time as provided herein, on or before May 6, 2019 (the "Expiration Date"), all subject to the following terms and conditions.

As used in this Warrant, (i) "Business Day" means any day other than Saturday, Sunday or any other day on which commercial banks in the City of New York, New York, are authorized or required by law or executive order to close; (ii) "Common Stock" means the common stock of the Company, par value \$0.0001 per share, including any securities issued or issuable with respect thereto or into which or for which such shares may be exchanged for, or converted into, pursuant to any stock dividend, stock split, stock combination, recapitalization, reclassification, reorganization or other similar event; (iii) "Exercise Price" means \$0.01 per share of Common Stock, subject to adjustment as provided herein; (iv) "Trading Day" means any day on which the Common Stock is traded (or available for trading) on its principal trading market; (v) "Affiliate" means any person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, a person, as such terms are used and construed in Rule 144 promulgated under the U.S. Securities Act of 1933, as amended (the "Securities Act") and (vi) "Warrantholder" means the holder of this Warrant.

**1. DURATION AND EXERCISE OF WARRANTS**

(a) Exercise Period. The Holder may exercise this Warrant at any time after the maturity date for the Note, in whole or in part, on any Business Day on or before 5:00 P.M., Eastern Time, on the Expiration Date, at which time this Warrant shall become void and of no value.

(b) Exercise Procedures.

(i) While this Warrant remains outstanding and exercisable in accordance with Section 1(a), in addition to the manner set forth in Section 1(b)(ii) below, the Holder may exercise this Warrant in whole or in part at any time and from time to time by:

(A) delivery to the Company of a duly executed copy of the Notice of Exercise attached as Exhibit A;

(B) surrender of this Warrant to the Secretary of the Company at its principal offices or at such other office or agency as the Company may specify in writing to the Holder; and

(C) payment of the then-applicable Exercise Price per share multiplied by the number of Warrant Shares being purchased upon exercise of the Warrant (such amount, the "Aggregate Exercise Price") made in the form of cash, or by certified check, bank draft or money order payable in lawful money of the United States of America.

(ii) In addition to the provisions of Section 1(b)(i) above, the Holder may, in its sole discretion, exercise all or any part of the Warrant in a "cashless" or "net-issue" exercise (a "Cashless Exercise") by delivering to the Company (1) the Notice of Exercise and (2) the original Warrant, pursuant to which the Holder shall surrender the right to receive upon exercise of this Warrant, a number of Warrant Shares having a value (as determined below) equal to the Aggregate Exercise Price, in which case, the number of Warrant Shares to be issued to the Holder upon such exercise shall be calculated using the following formula:

$$X = \frac{Y * (A - B)}{A}$$

with:

X = the number of Warrant Shares to be issued to the Holder

Y = the number of Warrant Shares with respect to which the Warrant is being exercised

A = the fair value per share of Common Stock on the date of exercise of this Warrant

B = the then-current Exercise Price of the Warrant

Solely for the purposes of this paragraph, "fair value" per share of Common Stock shall mean the average Closing Price (as defined below) per share of Common Stock for the twenty (20) trading days immediately preceding the date on which the Notice of Exercise is deemed to have been sent to the Company. "Closing Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market or any other national securities exchange, the closing price per share of the Common Stock for such date (or the nearest preceding date) on the primary eligible market or exchange on which the Common Stock is then listed or quoted; (b) if prices for the Common Stock are then quoted on OTC Markets, the closing bid price per share of the Common Stock for such date (or the nearest preceding date) so quoted; or (c) if prices for the Common Stock are then reported in the "Pink Sheets" published by the National Quotation Bureau Incorporated (or a similar organization or agency succeeding to its functions of reporting prices), the most recent closing bid price per share of the Common Stock so reported. If the Common Stock is not publicly traded as set forth above, the "fair value" per share of Common Stock shall be reasonably and in good faith determined by the Board of Directors of the Company as of the date which the Notice of Exercise is deemed to have been sent to the Company.

For purposes of Rule 144 promulgated under the Securities Act, it is intended, understood and acknowledged that the Warrant Shares issued in a cashless exercise transaction shall be deemed to have been acquired by the Holder, and the holding period for such shares shall be deemed to have commenced, on the date this Warrant was originally issued.

(iii) Upon the exercise of this Warrant in compliance with the provisions of this Section 1(b), the Company shall promptly issue and cause to be delivered to the Holder a certificate for the Warrant Shares purchased by the Holder. Each exercise of this Warrant shall be effective immediately prior to the close of business on the date (the "Date of Exercise") that the conditions set forth in Section 1(b) have been satisfied, as the case may be. On the first Business Day following the date on which the Company has received each of the properly completed Notice of Exercise and the Aggregate Exercise Price in cleared funds (the "Exercise Delivery Documents"), the Company shall transmit an acknowledgment of receipt of the Exercise Delivery Documents to the Company's transfer agent (the "Transfer Agent"). On or before the fifth Business Day following the date on which the Company has received all of the Exercise Delivery Documents (the "Share Delivery Date"), the Company shall use its best efforts to cause its transfer agent to issue and dispatch by certified or registered mail or overnight courier (at the Holder's cost) to the address as specified in the Notice of Exercise, a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder is entitled pursuant to such exercise.

(c) Partial Exercise. This Warrant shall be exercisable, either in its entirety or, from time to time, for part only of the number of Warrant Shares referenced by this Warrant. If this Warrant is submitted in connection with any exercise pursuant to Section 1 and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the actual number of Warrant Shares being acquired upon such an exercise, then the Company shall as soon as practicable and in no event later than seven (7) Business Days after any exercise and at its own expense, issue a new Warrant of like tenor representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised.

(d) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall promptly issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 16.

## 2. ISSUANCE OF WARRANT SHARES

(a) The Company covenants that all Warrant Shares will, upon issuance in accordance with the terms of this Warrant, be (i) duly authorized, fully paid and non-assessable, and (ii) free from all liens, charges and security interests, with the exception of claims arising through the acts or omissions of any Holder and except as arising from applicable Federal and state securities laws.

(b) The Company shall register this Warrant upon records to be maintained by the Company for that purpose in the name of the record holder of such Warrant from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner thereof for the purpose of any exercise thereof, any distribution to the Holder thereof and for all other purposes.

(c) The Company will not, by amendment of its Articles of Incorporation, By-laws or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all the provisions of this Warrant and in the taking of all action necessary or appropriate in order to protect the rights of the Holder to exercise this Warrant, or against impairment of such rights.

## 3. ADJUSTMENTS OF EXERCISE PRICE, NUMBER AND TYPE OF WARRANT SHARES

(a) The Exercise Price and the number of shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time upon the occurrence of certain events described in this Section 3; provided, that notwithstanding the provisions of this Section 3, the Company shall not be required to make any adjustment if and to the extent that such adjustment would require the Company to issue a number of shares of Common Stock in excess of its authorized but unissued shares of Common Stock, less all amounts of Common Stock that have been reserved for issue upon the conversion of all outstanding securities convertible into shares of Common Stock and the exercise of all outstanding options, warrants and other rights exercisable for shares of Common Stock. If the Company does not have the requisite number of authorized but unissued shares of Common Stock to make any adjustment, the Company shall use its commercially best efforts to obtain the necessary stockholder consent to increase the authorized number of shares of Common Stock to make such an adjustment pursuant to this Section 3.

(i) Subdivision or Combination of Stock. In case the Company shall at any time subdivide (whether by way of stock dividend, stock split or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision shall be proportionately reduced and the number of Warrant Shares shall be proportionately increased, and conversely, in case the outstanding shares of Common Stock of the Company shall be combined (whether by way of stock combination, reverse stock split or otherwise) into a smaller number of shares, the Exercise Price in effect immediately prior to such combination shall be proportionately increased and the number of Warrant Shares shall be proportionately decreased. The Exercise Price and the Warrant Shares, as so adjusted, shall be readjusted in the same manner upon the happening of any successive event or events described in this Section 3(a)(i).

(ii) Reorganization, Reclassification, Consolidation, Merger or Sale.

(A) If any recapitalization, reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another corporation, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that there is no "Change of Control" of the Company (as hereafter defined) and holders of Common Stock shall be entitled to receive stock, securities, or other assets or property in exchange for their Common Stock (an "Organic Change"), then, as a condition of such Organic Change, lawful and adequate provisions shall be made by the Company whereby the Holder hereof shall thereafter have the right to purchase and receive (in lieu of the shares of the Common Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the rights represented by this Warrant) such shares of stock, securities or other assets or property as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Common Stock equal to the number of shares of such stock immediately theretofore purchasable and receivable assuming the full exercise of the rights represented by this Warrant. In the event of any Organic Change, appropriate provision shall be made by the Company with respect to the rights and interests of the Holder of this Warrant to the end that the provisions hereof (including, without limitation, registration rights) shall thereafter be applicable, in relation to any shares of stock or securities thereafter deliverable upon the exercise hereof. The Company will not effect any such Organic Change unless, prior to the consummation thereof, the successor corporation (if other than the Company) resulting from such Organic Change purchasing such assets shall assume by written instrument reasonably satisfactory in form and substance to the then holders of a majority of the Warrants issued in the Offering executed and mailed or delivered to the registered Holder hereof at the last address of such Holder appearing on the books of the Company, the obligation to deliver to such Holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such Holder may be entitled to purchase.

(B) Except as otherwise provided herein, if any recapitalization, reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another corporation, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that there is a "Change of Control" of the Company (as hereafter defined) and holders of Common Stock shall be entitled to receive stock, securities, or other assets or property in exchange for their Common Stock (a "Control Change"), then, the Holder shall be required to accept the net value of the Warrant (the fair market value less the exercise price) in exchange for the cancellation of the Warrant. Such consideration shall be paid to the Holder at the same time as the consideration from the Control Change is paid to the holders of the Company's Common Stock. As a condition of such Control Change, the Company shall be required to comply with subsection (C) below. "Change of Control" shall mean (i) the acquisition by any person or group (as that term is defined in the Act and the rules promulgated thereunder) in a single transaction or a series of transactions of 30% or more in voting power of the Common Stock of the Company; (ii) a sale of substantially all of the assets of the Company to an entity that is not a subsidiary or the Company; (iii) a merger, consolidation or reorganization involving the Company, following which the current stockholders of the Company as of the date hereof (the "Current Stockholders") will not have voting power with respect to at least 50% of the voting securities entitled to vote generally in the election of directors of the surviving entity; or (iv) the consummation of a sale by the Current Stockholders to a third party (the "Acquiring Party") of some or all of the shares of Common Stock held by the Current Stockholders, which sale results in the Current Stockholders having voting power with respect to less than 50% of the voting securities entitled to vote in the election of directors of the Company.



(C) If there is an Organic Change or a Control Change, then the Company shall cause to be mailed to the Holder at its last address as it shall appear on the books and records of the Company, at least 10 calendar days before the effective date of the Organic Change or the Control Change, a notice stating the date on which such Organic Change or Control Change is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares for securities, cash, or other property delivered upon such Organic Change or Control Change; provided, that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. The Holder is entitled to exercise this Warrant during the 10-day period commencing on the date of such notice to the effective date of the event triggering such notice. In any event, the successor corporation (if other than the Company) resulting from an Organic Change (but not from a Control Change) shall be deemed to assume such obligation to deliver to such Holder such shares of stock, securities or assets even in the absence of a written instrument assuming such obligation to the extent such assumption occurs by operation of law.

(b) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment pursuant to this Section 3, the Company at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each Holder of this Warrant a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The certificate shall also set forth the number of shares and the amount, if any, of other property which at the time would be received upon the exercise of the Warrant.

(c) Certain Events. If any event occurs as to which the other provisions of this Section 3 are not strictly applicable but the lack of any adjustment would not fairly protect the purchase rights of the Holder under this Warrant in accordance with the basic intent and principles of such provisions, or if strictly applicable would not fairly protect the purchase rights of the Holder under this Warrant in accordance with the basic intent and principles of such provisions, then the Company's Board of Directors will, in good faith, make an appropriate adjustment to protect the rights of the Holder; provided, that no such adjustment pursuant to this Section 3(c) will increase the Exercise Price or decrease the number of Warrant Shares except as otherwise determined pursuant to this Section 3.

(d) Adjustment of Exercise Price Upon Issuance of Additional Shares of Common Stock. In the event the Company shall at any time prior to the Expiration Date issue Additional Shares of Common Stock, as defined below, without consideration or for a consideration per share less than the Exercise Price (as such amount may be adjusted just prior to such issue pursuant to this Section 3), then the Exercise Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Exercise Price by a fraction, (A) the numerator of which shall be (1) the number of shares of Common Stock outstanding immediately prior to such issue plus (2) the number of shares of Common Stock which the aggregate consideration received or to be received by the Company for the total number of Additional Shares of Common Stock so issued would purchase at such Exercise Price; and (B) the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common Stock so issued; provided that, (i) for the purpose of this Section 3(d), all shares of Common Stock issuable upon conversion or exchange of convertible securities outstanding immediately prior to such issue shall be deemed to be outstanding, and (ii) the number of shares of Common Stock deemed issuable upon conversion or exchange of such outstanding convertible securities shall be determined without giving effect to any adjustments to the conversion or exchange price or conversion or exchange rate of such convertible securities resulting from the issuance of Additional Shares of Common Stock that is the subject of this calculation. For purposes of this Warrant, "Additional Shares of Common Stock" shall mean all shares of Common Stock issued by the Company after the Effective Date (including without limitation any shares of Common Stock issuable upon conversion or exchange of any convertible securities or upon exercise of any option or warrant, on an as-converted basis), other than: (i) shares of Common Stock issued or issuable upon conversion or exchange of any convertible securities or exercise of any options or warrants outstanding on the Effective Date; (ii) shares of Common Stock issued or issuable by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Sections 3(a) above; (iii) shares of Common Stock (or options with respect thereto) issued or issuable to employees or directors of, or consultants to, the Company or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors of the Company including, but not limited to, the Company's equity incentive plans described in the Company's SEC Filings; (iv) any securities issued or issuable by the Company pursuant to the this Warrant; (v) securities issued pursuant to acquisitions or strategic transactions approved by a majority of disinterested directors of the Company, provided that any such issuance shall only be to a person which is, itself or through its subsidiaries, an operating company in a business synergistic with the business of the Company and in which the Company receives benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities; and (vi) securities issued to financial institutions, institutional investors or lessors in connection with credit arrangements, equipment financings or similar transactions approved by a majority of disinterested directors of the Company. The provisions of this Section 3(d) shall not operate to increase the Exercise Price.

Upon each adjustment of the Exercise Price pursuant to the provisions of this Section 3(d), the number of Warrant Shares issuable upon exercise of this Warrant shall be adjusted by multiplying a number equal to the Exercise Price in effect immediately prior to such adjustment by the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such adjustment and dividing the product so obtained by the adjusted Exercise Price.

(e) Notwithstanding the provisions of this Section 3, the Company shall not be required to make any adjustment if and to the extent that such adjustment would require the Company to issue a number of Warrant Shares in excess of its authorized but unissued shares of Common Stock, less all amounts of Common Stock that have been reserved for issue upon the conversion of all outstanding securities convertible into shares of Common Stock and the exercise of all outstanding options, warrants and other rights exercisable for shares of Common Stock. If the Company does not have the requisite number of authorized but unissued shares of Common Stock to make any adjustment, the Company shall use its commercially best efforts to obtain the necessary stockholder consent to increase the authorized number of shares of Common Stock to make such an adjustment pursuant to this Section 3.

#### 4. TRANSFERS AND EXCHANGES OF WARRANT AND WARRANT SHARES

(a) Registration of Transfers and Exchanges. Subject to Section 4(c) of this Warrant, upon the Holder's surrender of this Warrant, with a duly executed copy of the Form of Assignment attached hereto as Exhibit B, to the Secretary of the Company at its principal offices or at such other office or agency as the Company may specify in writing to the Holder, the Company shall register the transfer of all or any portion of this Warrant. Upon such registration of transfer, the Company shall issue a new Warrant, in substantially the form of this Warrant, evidencing the acquisition rights transferred to the transferee and a new Warrant, in similar form, evidencing the remaining acquisition rights not transferred, to the Holder requesting the transfer.

(b) Warrant Exchangeable for Different Denominations. The Holder may exchange this Warrant for a new Warrant or Warrants, in substantially the form of this Warrant, evidencing in the aggregate the right to purchase the number of Warrant Shares which may then be purchased hereunder, each of such new Warrants to be dated the date of such exchange and to represent the right to purchase such number of Warrant Shares as shall be designated by the Holder. The Holder shall surrender this Warrant with duly executed instructions regarding such re-certification of this Warrant to the Secretary of the Company at its principal offices or at such other office or agency as the Company may specify in writing to the Holder.

(c) Restrictions on Transfers. This Warrant may not be transferred at any time without (i) registration under the Securities Act or (ii) an exemption from such registration and a written opinion of legal counsel addressed to the Company that the proposed transfer of the Warrant may be effected without registration under the Securities Act, which opinion will be in form and from counsel reasonably satisfactory to the Company.

#### 5. MUTILATED OR MISSING WARRANT CERTIFICATE

If this Warrant is mutilated, lost, stolen or destroyed, upon request by the Holder, the Company will, at its expense, issue, in exchange for and upon cancellation of the mutilated Warrant, or in substitution for the lost, stolen or destroyed Warrant, a new Warrant, in substantially the form of this Warrant, representing the right to acquire the equivalent number of Warrant Shares; provided, that, as a prerequisite to the issuance of a substitute Warrant, the Company may require satisfactory evidence of loss, theft or destruction as well as an indemnity from the Holder of a lost, stolen or destroyed Warrant.

#### 6. PAYMENT OF TAXES

The Company will pay all transfer and stock issuance taxes attributable to the preparation, issuance and delivery of this Warrant and the Warrant Shares (and replacement Warrants) including, without limitation, all documentary and stamp taxes; provided, however, that the Company shall not be required to pay any tax in respect of the transfer of this Warrant, or the issuance or delivery of certificates for Warrant Shares or other securities in respect of the Warrant Shares to any person or entity other than to the Holder.

**7. FRACTIONAL WARRANT SHARES**

No fractional Warrant Shares shall be issued upon exercise of this Warrant. The Company, in lieu of issuing any fractional Warrant Share, shall round down the aggregate number of Warrant Shares issuable to a Holder to the nearest whole share.

**8. NO STOCK RIGHTS AND LEGEND**

No holder of this Warrant, as such, shall be entitled to vote or be deemed the holder of any other securities of the Company that may at any time be issuable on the exercise hereof, nor shall anything contained herein be construed to confer upon the holder of this Warrant, as such, the rights of a stockholder of the Company or the right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or give or withhold consent to any corporate action or to receive notice of meetings or other actions affecting stockholders (except as provided herein), or to receive dividends or subscription rights or otherwise (except as provide herein).

Each certificate for Warrant Shares initially issued upon the exercise of this Warrant, and each certificate for Warrant Shares issued to any subsequent transferee of any such certificate, shall be stamped or otherwise imprinted with a legend in substantially the following form:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE SECURITIES LAWS, AND NEITHER SUCH SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR OTHERWISE TRANSFERRED UNLESS (1) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR (2) AN EXEMPTION FROM SUCH REGISTRATION EXISTS AND THE COMPANY RECEIVES AN OPINION OF COUNSEL TO THE HOLDER OF SUCH SECURITIES, WHICH COUNSEL AND OPINION ARE REASONABLY SATISFACTORY TO THE COMPANY, THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR TRANSFERRED IN THE MANNER CONTEMPLATED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS.”

**9. NOTICES**

All notices, consents, waivers, and other communications under this Warrant must be in writing and will be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile or e-mail with confirmation of transmission by the transmitting equipment; (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, if to the registered Holder hereof; or (d) seven days after the placement of the notice into the mails (first class postage prepaid), to the Holder at the address, facsimile number, or e-mail address furnished by the registered Holder to the Company, or if to the Company, to it at 2365 Iron Point Road, Suite 190, Folsom, CA 95630, Attention: Chief Executive Officer (or to such other address, facsimile number, or e-mail address as the Holder or the Company as a party may designate by notice the other party) with a copy to Gottbetter & Partners, LLP, 488 Madison Avenue, 12<sup>th</sup> Floor, New York, NY 10022, Attention: Adam S. Gottbetter, Esq.

**10. SEVERABILITY**

If a court of competent jurisdiction holds any provision of this Warrant invalid or unenforceable, the other provisions of this Warrant will remain in full force and effect. Any provision of this Warrant held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

**11. BINDING EFFECT**

This Warrant shall be binding upon and inure to the sole and exclusive benefit of the Company, its successors and assigns, and the registered Holder or Holders from time to time of this Warrant and the Warrant Shares.

**12. SURVIVAL OF RIGHTS AND DUTIES**

This Warrant shall terminate and be of no further force and effect on the earlier of 5:00 p.m. Eastern Time, on the Expiration Date or the date on which this Warrant has been exercised in full.

**13. GOVERNING LAW**

This Warrant will be governed by and construed under the laws of the State of Colorado without regard to conflicts of laws principles that would require the application of any other law.

**14. DISPUTE RESOLUTION**

In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall submit the disputed determinations or arithmetic calculations via facsimile within two Business Days of receipt of the Notice of Exercise giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation of the Exercise Price or the Warrant Shares within three Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two Business Days, submit via facsimile (a) the disputed determination of the Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company shall cause at its expense the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

**15. NOTICES OF RECORD DATE**

Upon (a) any establishment by the Company of a record date of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or right or option to acquire securities of the Company, or any other right, or (b) any capital reorganization, reclassification, recapitalization, merger or consolidation of the Company with or into any other corporation, any transfer of all or substantially all the assets of the Company, or any voluntary or involuntary dissolution, liquidation or winding up of the Company, or the sale, in a single transaction, of a majority of the Company's voting stock (whether newly issued, or from treasury, or previously issued and then outstanding, or any combination thereof), the Company shall mail to the Holder at least ten (10) Business Days, or such longer period as may be required by law, prior to the record date specified therein, a notice specifying (i) the date established as the record date for the purpose of such dividend, distribution, option or right and a description of such dividend, option or right, (ii) the date on which any such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up, or sale is expected to become effective and (iii) the date, if any, fixed as to when the holders of record of Common Stock shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up.

**16. RESERVATION OF SHARES**

Subject to Section 3(e) of this Warrant, the Company shall reserve and keep available out of its authorized but unissued shares of Common Stock for issuance upon the exercise of this Warrant, free from pre-emptive rights, such number of shares of Common Stock for which this Warrant shall from time to time be exercisable. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation. Subject to Section 3(e) of this Warrant, without limiting the generality of the foregoing, the Company covenants that it will use commercially reasonable efforts to take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and use commercially reasonable efforts to obtain all such authorizations, exemptions or consents, including but not limited to consents from the Company's stockholders or Board of Directors or any public regulatory body, as may be necessary to enable the Company to perform its obligations under this Warrant.

**17. NO THIRD PARTY RIGHTS**

This Warrant is not intended, and will not be construed, to create any rights in any parties other than the Company and the Holder, and no person or entity may assert any rights as third-party beneficiary hereunder.

*[Signature page follows]*

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed as of the date first set forth above.

**RACKWISE, INC.**

By: /s/ Guy A. Archbold

Name: Guy A. Archbold

Title: President and Chief Executive Officer

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[SIGNATURE PAGE TO RICHERT FUNDING II, LLC WARRANT CERTIFICATE]

**EXHIBIT A**

**NOTICE OF EXERCISE**

(To be executed by the Holder of Warrant if such Holder desires to exercise Warrant)

To Rackwise, Inc.:

The undersigned hereby irrevocably elects to exercise this Warrant and to purchase thereunder, \_\_\_\_\_ shares of Rackwise, Inc. common stock issuable upon exercise of the Warrant and delivery of (i) \$\_\_\_\_\_ (in cash as provided for in the foregoing Warrant) and any applicable taxes payable by the undersigned pursuant to such Warrant; or (ii) \_\_\_\_\_ shares of Common Stock (pursuant to a Cashless Exercise in accordance with Section 1(b)(ii) of this Warrant).

The undersigned requests that certificates for such shares be issued in the name of:

(Please print name, address and social security or federal employer identification number (if applicable))

\_\_\_\_\_  
\_\_\_\_\_

If the shares issuable upon this exercise of the Warrant are not all of the Warrant Shares which the Holder is entitled to acquire upon the exercise of the Warrant, the undersigned requests that a new Warrant evidencing the rights not so exercised be issued in the name of and delivered to:

(Please print name, address and social security or federal employer identification number (if applicable))

\_\_\_\_\_  
\_\_\_\_\_

Name of Holder (print): \_\_\_\_\_  
(Signature): \_\_\_\_\_  
(By:) \_\_\_\_\_  
(Title:) \_\_\_\_\_  
Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT B**

**FORM OF ASSIGNMENT**

FOR VALUE RECEIVED, \_\_\_\_\_ hereby sells, assigns and transfers to each assignee set forth below all of the rights of the undersigned under the Warrant (as defined in and evidenced by the attached Warrant) to acquire the number of Warrant Shares set opposite the name of such assignee below and in and to the foregoing Warrant with respect to said acquisition rights and the shares issuable upon exercise of the Warrant:

Name of Assignee	Address	Number of Shares
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If the total of the Warrant Shares are not all of the Warrant Shares evidenced by the foregoing Warrant, the undersigned requests that a new Warrant evidencing the right to acquire the Warrant Shares not so assigned be issued in the name of and delivered to the undersigned.

Name of Holder (print): \_\_\_\_\_  
(Signature): \_\_\_\_\_  
(By:): \_\_\_\_\_  
(Title:): \_\_\_\_\_  
Dated: \_\_\_\_\_

EXHIBIT 10.1

## SUBSCRIPTION AGREEMENT

Ladies and Gentlemen:

**1. Subscription.** Rackwise, Inc., a Nevada corporation (the “Company”), is offering (the “Offering”) up to an aggregate of \$9,346,703 in face or principal amount of its Series A 12% Secured Three Year Convertible Notes (the “Notes”) at an aggregate purchase price of \$8,505,500 to the subscribers set forth on the signature page hereof (each a “Purchaser”, and collectively, the “Purchaser”). The Notes are being offered at a purchase price equal to 91% of the principal or face amount of the Notes. Each of the undersigned Purchasers, intending to be legally bound, hereby irrevocably agrees to purchase from the Company, the number of Notes in the aggregate principal amount and at the aggregate purchase price set forth on the signature page hereof. The form of the Notes is annexed hereto as Exhibit A.

(a) **Maturity:** The Notes mature three years from the date of issuance.

(b) **Conversion:** The Notes are convertible at any time prior to maturity, in whole or in part, at the Purchaser’s sole option, into units of the Company’s securities (the “Units”). The first \$6,046,703 in principal amount of Notes offered and sold are convertible into Units at a conversion price of \$0.50 (the “Conversion Price”) per Unit (collectively, the “Initial Units”). Each Initial Unit shall consist of one share (the “Initial Unit Shares”) of the Company’s common stock, \$0.001 par value per share (the “Common Stock”), and one five year common stock purchase warrant with an exercise price of \$0.625 per share (the “Initial Unit Warrants”). The remaining principal amount of Notes to be offered and sold are convertible into Units (the “Subsequent Units”) at a conversion price of \$0.75 per Subsequent Unit. Each Subsequent Unit shall consist of one share of Common Stock (the “Subsequent Unit Shares”, and together with the Initial Unit Shares, the “Unit Shares”) and one five year common stock purchase warrant with an exercise price of \$0.94 per share (the “Subsequent Unit Warrants”). The shares underlying the Initial Unit Warrants are hereinafter referred to as the “Initial Unit Warrant Shares” and the shares underlying the Subsequent Unit Warrants are hereinafter referred to as the “Subsequent Unit Warrant Shares” (together with the Initial Unit Warrant Shares, the “Warrant Shares”). While the Notes remain outstanding, the Conversion prices for the Units are subject to weighted average anti-dilution and proportional adjustments subject to customary exceptions including issuances as provided in the Notes.

(c) **Denominations:** The Notes shall be issued in face amount denominations of \$1,000 or such larger denominations as mutually agreed to by the Company and each Purchaser.

(d) **Interest:** The Notes shall bear interest at the rate of 12% per annum payable quarterly in arrears. During the first year of the term of the Notes, until such time that the Company achieves positive cash flow for a minimum of two successive fiscal quarters, at the sole option of the Company interest payable in any quarter may be paid-in-kind and added to the balance of the Notes quarterly in arrears.

Upon the occurrence and during the continuance of an Event of Default (as such term is defined in the Notes) the rate of interest payable on the Notes shall be increased to a rate of 18% per annum. Payments of interest at the 18% default rate are not payable in kind.

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(e) Timing of Note Purchases. It is intended that the Purchasers shall purchase an initial tranche of \$3,296,703 in principal amount of Notes on May 7, 2014 and additional tranches, each in the amount of at least \$250,000, on the 15<sup>th</sup> day of each month thereafter (the "Subsequent Funding Date"). The Company may, in its sole discretion, determine to accept lesser amounts from the Purchasers on each Subsequent Funding Date. If, following the purchase of the final tranche by the Purchasers, the Company requests Purchasers to make additional purchases of the Notes, the Purchasers may do so on the same terms provided for herein. The Purchasers intend to purchase Notes on the dates and in the amounts indicated but is under no obligation to do so.

(f) Security: Subject to the Permitted Liens set forth in Schedule 1(f) hereto, the Notes will be secured by a security interest in and lien on all now owned or hereafter acquired assets of the Company and its subsidiaries, pursuant to a Security Agreement between the Company and the Purchasers in the form annexed hereto as Exhibit B.

(g) Rank: Except for the Permitted Liens set forth in Schedule 1(f) hereto, the Notes will rank senior in priority to all existing and future indebtedness of the Company.

(h) Registration: Upon the Purchasers having advanced a minimum of \$2,500,000 in funding through the conversion of Company debt or otherwise, the Purchasers shall have demand registration rights with respect to the Unit Shares and Warrant Shares. Thereunder, the Purchasers owning a majority of the Unit Shares and Warrant Shares may, on a one time basis, request that the Company, within 90 days of such request, file a registration statement on Form S-1 or such other form as applicable (the "Registration Statement") to register the shares comprising the Unit Shares and the Warrant Shares. Such Registration Statement will attempt to register all of the Unit Shares and Warrant Shares issuable upon an assumed full conversion of \$9,346,703 in principal amount of the Notes, including any accrued and unpaid interest thereon. The Registration Statement may also include shares issuable in an ongoing private placement of Company securities and/or securities that were issued in a private placement of Company securities which closed within 90 days of the achievement of the Threshold Amount. The Company will use its best efforts to have such Registration Statement declared effective within 90 days of the initial filing date thereof and to keep such Registration Statement effective until the earlier of (x) one (1) year from the effective date of the Registration Statement, (y) until all of the Unit Shares and Warrant Shares can be sold without restriction under Rule 144 or (z) the date when all of the Unit Shares and Warrant Shares have been sold (the "Effectiveness Period"). Thereafter, the Company shall be entitled to withdraw such Registration Statement and the Purchasers shall have no further right to offer or sell any of the Unit Shares and Warrant Shares registered for resale thereon pursuant to the respective Registration Statement (or any prospectus relating thereto).

(i) Purchaser's Option: If the Purchasers purchase an aggregate of \$6,046,703 in principal amount of Notes under and in accordance with the terms of one or more of these Subscription Agreements (this "Agreement"), the Purchasers will be given a six month option, commencing upon the completion of the Offering, to purchase up to an additional \$5,000,000 in principal amount of Notes on the same terms and condition as the Notes purchased hereunder except that the Unit conversion price shall be \$1.20 per Unit and the Unit Warrants shall have an exercise price of \$1.50 per share.

(j) Use of Proceeds: The net cash proceeds of the Offering shall be used by the Company as general working capital.

(k) Prepayment: Subject to each Purchaser's right to convert the Notes, upon 20 days prior written notice by the Company to the Purchaser, the Company may, commencing one year after the respective issuance date for the Notes, prepay the Notes prior to maturity.

(l) Transaction Fees: In connection with and at the time of each closing of Note subscriptions hereunder, each Purchaser or its assigns shall be entitled to a cash structuring fee equal to 7.5% of the aggregate amount of capital provided by such Purchaser in connection with the purchase of the Notes. In addition, such Purchaser will receive units (the "Purchaser Fee Units"), with each Purchaser Fee Unit consisting of one share of Common Stock and one five-year warrant (the "Unit Warrants") exercisable for the purchase of one share of Common Stock. Each Purchaser shall be entitled to receive Purchase Fee Units at the rate of 0.075 Purchase Fee Units for every \$0.50 advanced by such Purchaser hereunder in connection with the purchase of the first \$6,046,703 in principal amount of Notes. This will equate to 150 Purchase Fee Units for every \$1,000 invested. The first 825,375 Purchase Fee Units, which is the number of Purchase Fee Units issuable against the first \$6,046,703 in principal amount of Notes sold at a purchase price of \$5,502,500, shall contain Unit Warrants exercisable at a price of \$0.625 per share. Each Purchaser shall be entitled to receive Purchase Fee Units at the rate of \$0.075 Purchase Fee Units for every \$0.75 advanced by such Purchaser hereunder in connection with the purchase of the remaining \$3,300,000 in principal amount of Notes sold at a purchase price of \$3,003,000. This will equate to 100 Purchase Fee Units for each \$1,000 in principal amount of Notes purchased at a purchase price of \$910. The remaining Purchase Fee Units shall contain Unit Warrants exercisable at a price of \$0.94 per share. The Company does not have the cash assets to pay the \$225,000 cash structuring fee due on the initial purchase of \$3,296,703 in principal amount of Notes. The Company's obligation to pay such cash structuring fee shall remain as a debt obligation on the Company's books. If the Company is unable to pay the cash structuring fee by October 31, 2014, the Purchasers shall have the option to convert the cash structuring fee into 450,000 common shares of the Company and 16,452 five year share purchase warrants each exercisable to purchase one share of the Company's common stock at a price of \$0.01 per share.

(m) Expense Reimbursement: The Company shall reimburse Purchasers for all reasonable out of pocket fees, costs and expenses incurred by the Purchasers relating to the purchase of the Notes and related transactions including, but not limited to, diligence investigation costs and document preparation and negotiation up to a maximum of \$25,000 in the aggregate for all Purchasers. Purchasers will be responsible for the payment of any Finder Fees or commission applicable to the offer and sale of the Notes.

(n) Exclusivity: At such time that \$1,000,000 or more has been provided to the Company through Note subscriptions of such Purchaser, such Purchaser shall have the exclusive right to purchase the Notes on the terms provided herein until the following Subsequent Funding Date. Such exclusive right is conditioned upon Purchaser subscribing for Notes in the amount and at the times contemplated by this Subscription Agreement. During the exclusivity period, the Company shall not directly or indirectly solicit, encourage, initiate or provide any information to any person, entity or group, other than the Purchasers, concerning the Notes or related matters that would conflict with, or preclude, consummation of the purchase of the Notes.

(o) Events of Default: The Notes contain such customary events of default as are set forth therein.

(p) Right of First Refusal: At such time that \$3,000,000 or more has been provided to the Company through Note subscriptions of a Purchaser, such Purchaser shall have the right, for a period of three years from the completion of the Offering, to participate in subsequent (i) debt financings by the Company, based on such Purchaser's pro rata ownership of the Notes, and (ii) equity financings by the Company, based on such Purchaser's pro rata equity ownership of Common Stock, on a fully-diluted basis.

(q) Purchaser: For purposes of this Agreement, Purchaser or Purchasers shall mean Rackwise Funding II LLC, a Colorado limited liability corporation formed by Black Diamond Financial Group, LLC and assigns of Rackwise Funding II LLC.

(r) Right to Appoint Board Members: At such time that \$3,000,000 or more has been provided to the Company through Note subscriptions of the Purchaser, the Purchaser shall have the right to appoint two new members to the Company's board of directors which, following such appointments, shall consist of seven members.

**2. Offering.** This subscription is submitted to you in accordance with and subject to the terms and conditions described in this Subscription Agreement, as amended, modified or supplemented from time to time, including all attachments, schedules and exhibits hereto, relating to the Offering. Subject to Section 1, no minimum amount of Notes must be sold to close and complete the Offering.

**3. Payment.** Except with respect to the initial \$3,296,703 in Note subscriptions involving a debt conversion, the Purchaser will send directly a check payable to, or will make a wire transfer payment to the Company, in the full amount of the purchase price of the Notes being subscribed for. Wire transfer instructions are set forth under the heading "To subscribe for Notes in the private offering of Rackwise, Inc." Together with a check for, or wire transfer of, the full Purchase Price, the Purchaser is delivering a completed and executed Signature Page to this Subscription Agreement, together with the Purchaser's completed Accredited Investor Certification, Investor Profile and Anti-Money Laundering Information Form, in the form attached to this Subscription Agreement, and any other documents, agreements, supplements and additions thereto required by the Company (collectively, the "Subscription Documents").

**4. Deposit of Funds.** The initial closing of the purchase and sale of the Notes (the "Closing") shall take place as soon as practicable following the execution by the Purchaser of this Subscription Agreement. There will be multiple Closings until such time as all the Notes offered pursuant to this Subscription Agreement are sold (the date of any such Closing is hereinafter referred to as a "Closing Date"). Subject to the satisfaction of the terms and conditions of this Subscription Agreement, on each Closing Date, (i) the Purchaser shall deliver to the Company or to persons as otherwise directed by the Company the full Purchase Price for the Notes to be issued and sold by the Company to the Purchaser on such Closing Date, and (ii) the Company shall promptly thereafter deliver directly to the Purchaser the Notes, in the full principal amount being purchased at such Closing, duly executed on behalf of the Company. The last of such Closings will occur when all of the Notes offered hereby have been sold or the Company determines to terminate the Offering (i) due to the failure of Purchaser to meet the minimum monthly funding requirements (a "Funding Failure") or (ii) as the result of the mutual agreement of the Company and the Purchaser. Notwithstanding the foregoing, the Company must give Purchaser a minimum of 15 days prior written notice (the "Notice Period") of its determination to terminate the Offering due to a Funding Failure. During the Notice Period, Purchaser shall have the right to cure such Funding Failure. Each Closing shall occur on a Closing Date at the offices of Gottbetter & Partners, LLP, 488 Madison Avenue, 12<sup>th</sup> Floor, New York, New York 10022 (or such other place as is mutually agreed to by the Company and the Purchaser).

**5. Acceptance of Subscription.** The Purchaser understands and agrees that the Company, in its sole and absolute discretion, reserves the right to accept or reject this or any other subscription for Notes, in whole or in part, prior to the Closing of such Notes, notwithstanding prior receipt by the Purchaser of notice of acceptance of this subscription. The Company shall have no obligation hereunder until the Company shall execute and deliver to the Purchaser an executed copy of this Subscription Agreement. If a subscription is rejected in whole or the Offering is terminated, all funds received from the Purchaser will be returned without interest or offset, and this Subscription Agreement shall thereafter be of no further force or effect. If this subscription is rejected in part, the funds for the rejected portion of this subscription will be returned without interest or offset, and this Subscription Agreement will continue in full force and effect to the extent this subscription was accepted.

**6. Representations and Warranties of the Purchasers.** Each Purchaser hereby acknowledges, represents, warrants, and agrees as follows:

(a) None of the Notes, the Units, the Unit Warrants, the Unit Shares or the Warrants Shares are registered under the Securities Act of 1933, as amended (the "Securities Act"), or any state securities laws. The Purchaser understands that the offering and sale of the Notes is intended to be exempt from registration under the Securities Act, by virtue of Section 4(a)(2) thereof based, in part, upon the representations, warranties and agreements of the Purchaser contained in this Subscription Agreement;

(b) Prior to the execution of this Subscription Agreement, the Purchaser and the Purchaser's attorney, accountant, purchaser representative and/or tax adviser, if any (collectively, the "Advisers"), have received this Subscription Agreement and all other documents requested by the Purchaser, have carefully reviewed them and understand the information contained therein;

(c) Neither the SEC nor any state securities commission or other regulatory authority has approved the Notes, the Units, the Unit Warrants, the Unit Shares or the Warrants Shares or passed upon or endorsed the merits of the offering of the Notes;

(d) All documents, records, and books pertaining to the investment in the Notes have been made available for inspection by the Purchaser and its Advisers, if any;

(e) The Purchaser and/or its Advisers, if any, have had a reasonable opportunity to ask questions of and receive answers from a person or persons acting on behalf of the Company concerning the offering of the Notes and the business, financial condition and results of operations of the Company, and all such questions have been answered to the full satisfaction of the Purchaser and its Advisers, if any;

(f) In evaluating the suitability of an investment in the Company, the Purchaser has not relied upon any representation or information (oral or written) other than as stated herein;

(g) The Purchaser is unaware of, is in no way relying on, and did not become aware of the Offering through or as a result of, any form of general solicitation or general advertising including, without limitation, any article, notice, advertisement or other communication published in any newspaper, magazine or similar media or broadcast over television, radio or the Internet (including, without limitation, internet "blogs," bulletin boards, discussion groups and social networking sites) in connection with the Offering and sale of the Notes and is not subscribing for the Notes and did not become aware of the Offering through or as a result of any seminar or meeting to which the Purchaser was invited by, or any solicitation of a subscription by, a person not previously known to the Purchaser in connection with investments in securities generally;

(h) The Purchaser has taken no action that would give rise to any claim by any person for brokerage commissions, finders' fees or the like relating to this Subscription Agreement or the transactions contemplated hereby;

(i) The Purchaser, together with its Advisers, if any, has such knowledge and experience in financial, tax, and business matters, and, in particular, investments in securities, so as to enable it to utilize the information made available to it in connection with the Offering to evaluate the merits and risks of an investment in the Notes, the Units, the Unit Warrants, the Unit Shares and the Warrants Shares and the Company and to make an informed investment decision with respect thereto;

(j) The Purchaser is not relying on the Company, or any of its employees or agents with respect to the legal, tax, economic and related considerations of an investment in the Notes, the Units, the Unit Warrants, the Unit Shares and the Warrants Shares, and the Purchaser has relied on the advice of, or has consulted with, only its own Advisers;

(k) The Purchaser is acquiring the Notes solely for such Purchaser's own account for investment purposes only and not with a view to or intent of resale or distribution thereof, in whole or in part. Except as permitted by such Purchaser's constituent documents, the Purchaser has no agreement or arrangement, formal or informal, with any person to sell or transfer all or any part of the Notes, the Units, the Unit Warrants, the Unit Shares or the Warrants Shares, and the Purchaser has no plans to enter into any such agreement or arrangement;

(l) The Purchaser must bear the substantial economic risks of the investment in the Notes indefinitely because neither the Notes or any of the securities issuable upon conversion of the Notes may be sold, hypothecated or otherwise disposed of unless subsequently registered under the Securities Act and applicable state securities laws or an exemption from such registration is available (including, without limitation, under Regulation S). Legends to the following effect shall be placed on the Notes and the securities issuable upon conversion of the Notes to the effect that they have not been registered under the Securities Act or applicable state securities laws:

**THE SECURITIES REPRESENTED HEREBY AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). THE HOLDER HEREOF, BY PURCHASING SUCH SECURITIES, AGREES FOR THE BENEFIT OF THE COMPANY THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY IN ACCORDANCE WITH (I) REGULATION S UNDER THE SECURITIES ACT, IF AVAILABLE, (II) ANY OTHER EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT, IF AVAILABLE, OR (III) UNDER AN EFFECTIVE REGISTRATION STATEMENT, AND, IN EACH CASE, IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS. IN ADDITION, HEDGING TRANSACTIONS INVOLVING THE SECURITIES REPRESENTED HEREBY AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF, MAY NOT BE CONDUCTED UNLESS IN COMPLIANCE WITH THE SECURITIES ACT. RELIANCE ON AN EXEMPTION FROM REGISTRATION WILL REQUIRE THE HOLDER TO PROVIDE THE COMPANY WITH AN OPINION OF COUNSEL, WHICH COUNSEL AND OPINION MUST BE SATISFACTORY TO THE COMPANY.**

Appropriate notations will be made in the Company's stock books to the effect that the securities issuable upon conversion of the Notes have not been registered under the Securities Act or applicable state securities laws. Stop transfer instructions will be placed with the transfer agent with respect to the Unit Shares and Warrants Shares and on the Company's books with respect to the Notes, Units and Unit Warrants. The Company has agreed that purchasers of the Notes will have, with respect to the shares of Common Stock comprising the Unit Shares and Warrant Shares demand registration rights, the terms of which are discussed in Section 1(h). Notwithstanding such registration rights, there can be no assurance that there will be any market for resale of the Unit Shares and Warrants Shares, nor can there be any assurance that such securities will be freely transferable at any time in the foreseeable future.

(m) The Purchaser has adequate means of providing for such Purchaser's current financial needs and foreseeable contingencies and has no need for liquidity of its investment in the Notes for an indefinite period of time;

(n) The Purchaser is aware that an investment in the Notes is high risk, involving a number of very significant risks and has carefully read and considered the matters set forth in the "Risk Factors" section of the Company's Annual Report on Form 10-K, filed with the SEC on April 15, 2014 (File No. 000-54519) and, in particular, acknowledges that the Company has a limited operating history, has had operating losses since inception, and is engaged in a highly competitive business;

(o) The Purchaser meets the requirements of at least one of the suitability standards for an "accredited investor" as that term is defined in Rule 501(a)(3) of Regulation D and as set forth on the Accredited Investor Certification contained herein.

(p) The Purchaser (i) if a natural person, represents that the Purchaser has reached the age of 21 and has full power and authority to execute and deliver this Subscription Agreement and all other related agreements or certificates and to carry out the provisions hereof and thereof; (ii) if a corporation, partnership, or limited liability company or partnership, or association, joint stock company, trust, unincorporated organization or other entity, represents that such entity was not formed for the specific purpose of acquiring the Notes, such entity is duly organized, validly existing and in good standing under the laws of the state of its organization, the consummation of the transactions contemplated hereby is authorized by, and will not result in a violation of state law or its charter or other organizational documents, such entity has full power and authority to execute and deliver this Subscription Agreement and all other related agreements or certificates and to carry out the provisions hereof and thereof and to purchase and hold the securities underlying the Notes, the execution and delivery of this Subscription Agreement has been duly authorized by all necessary action, this Subscription Agreement has been duly executed and delivered on behalf of such entity and is a legal, valid and binding obligation of such entity; or (iii) if executing this Subscription Agreement in a representative or fiduciary capacity, represents that it has full power and authority to execute and deliver this Subscription Agreement in such capacity and on behalf of the subscribing individual, ward, partnership, trust, estate, corporation, or limited liability company or partnership, or other entity for whom the Purchaser is executing this Subscription Agreement, and such individual, partnership, ward, trust, estate, corporation, or limited liability company or partnership, or other entity has full right and power to perform pursuant to this Subscription Agreement and make an investment in the Company, and represents that this Subscription Agreement constitutes a legal, valid and binding obligation of such entity. The execution and delivery of this Subscription Agreement will not violate or be in conflict with any order, judgment, injunction, agreement or controlling document to which the Purchaser is a party or by which it is bound;



(q) The Purchaser and its Advisors have been furnished with all documents and materials relating to the business, finances and operations of the Company and all such other information that the Purchaser and/or its Advisors have requested and deemed material to making an informed investment decision regarding its securities. The Purchaser and the Advisers, if any, have had the opportunity to obtain any additional information, to the extent the Company has such information in its possession or could acquire it without unreasonable effort or expense, necessary to verify the accuracy of the information contained herein and all documents received or reviewed in connection with the purchase of the Units and have had the opportunity to have representatives of the Company provide them with such additional information regarding the terms and conditions of this particular investment and the financial condition, results of operations, business of the Company deemed relevant by the Purchaser or the Advisers, including the annual reports, quarterly reports, current reports, registration statements and other information filed by the Company with the SEC (see [www.sec.gov](http://www.sec.gov)), and all such requested information, to the extent the Company had such information in its possession or could acquire it without unreasonable effort or expense, has been provided to the full satisfaction of the Purchaser and the Advisers;

(r) Any information which the Purchaser has heretofore furnished or is furnishing herewith to the Company is complete and accurate and may be relied upon by the Company in determining the availability of an exemption from registration under federal and state securities laws in connection with the offering of the Notes. The Purchaser further represents and warrants that it will notify and supply corrective information to the Company immediately upon the occurrence of any change therein occurring prior to the Company's issuance of the Notes;

(s) The Purchaser has significant prior investment experience, including investment in non-listed and non-registered securities. The Purchaser is knowledgeable about investment considerations in development-stage companies with limited operating histories. The Purchaser has a sufficient net worth to sustain a loss of its entire investment in the Company in the event such a loss should occur. The Purchaser's overall commitment to investments which are not readily marketable is not excessive in view of the Purchaser's net worth and financial circumstances and the purchase of the Units will not cause such commitment to become excessive. The investment is a suitable one for the Purchaser;

(t) The Purchaser is satisfied that the Purchaser has received adequate information with respect to all matters which it or the Advisers, if any, consider material to its decision to make this investment;

(u) The Purchaser acknowledges that any estimates or forward-looking statements or projections included in this Subscription Agreement were prepared by the Company in good faith but that the attainment of any such projections, estimates or forward-looking statements cannot be guaranteed by the Company and should not be relied upon;

(v) No oral or written representations have been made, or oral or written information furnished, to the Purchaser or the Advisers, if any, in connection with the Offering which are in any way inconsistent with the information contained herein;

(w) Within five (5) days after receipt of a request from the Company, the Purchaser will provide such information and deliver such documents as may reasonably be necessary to comply with any and all laws and ordinances to which the Company is subject;

(x) THE SECURITIES OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. THE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER SAID ACT AND SUCH LAWS PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. RELIANCE ON AN EXEMPTION FROM REGISTRATION WILL REQUIRE THE HOLDER TO PROVIDE THE COMPANY WITH AN OPINION OF COUNSEL, WHICH COUNSEL AND OPINION MUST BE SATISFACTORY TO THE COMPANY. THE SECURITIES HAVE NOT BEEN RECOMMENDED, APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR ANY OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON OR ENDORSED THE MERITS OF THIS OFFERING OR THE ACCURACY OR ADEQUACY OF THE MEMORANDUM OR THIS SUBSCRIPTION AGREEMENT. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL;

The Purchaser acknowledges that the Company was, until September 27, 2012, a "shell company" as defined in Rule 12b-2 under the Exchange Act. Pursuant to Rule 144(i), securities issued by a current or former shell company (that is, the Securities) that otherwise meet the holding period and other requirements of Rule 144 nevertheless cannot be sold in reliance on Rule 144 until one year after the Company (a) is no longer a shell company; and (b) has filed current "Form 10 information" (as defined in Rule 144(i)) with the Commission reflecting that it is no longer a shell company, and provided that at the time of a proposed sale pursuant to Rule 144, the Company is subject to the reporting requirements of section 13 or 15(d) of the Exchange Act and has filed all reports and other materials required to be filed by section 13 or 15(d) of the Exchange Act, as applicable, during the preceding 12 months (or for such shorter period that the issuer was required to file such reports and materials), other than Form 8-K reports. As a result, the restrictive legends on certificates for the Notes and the securities underlying the Notes cannot be removed except in connection with an actual sale meeting the foregoing requirements or pursuant to an effective registration statement.

(y) In making an investment decision investors must rely on their own examination of the Company and the terms of the Offering, including the merits and risks involved. The Purchaser should be aware that it will be required to bear the financial risks of this investment for an indefinite period of time.

(z) In evaluating the suitability of an investment in the Units, the Purchaser has read and is making the representations set forth in Exhibit C to this Agreement.

(aa) **The Purchaser should check the Office of Foreign Assets Control (“OFAC”) website at <<http://www.treas.gov/ofac>> before making the following representations.** The Purchaser represents that the amounts invested by it in the Company in the Offering were not and are not directly or indirectly derived from activities that contravene federal, state or international laws and regulations, including anti-money laundering laws and regulations. Federal regulations and Executive Orders administered by OFAC prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <<http://www.treas.gov/ofac>>. In addition, the programs administered by OFAC (the “OFAC Programs”) prohibit dealing with individuals<sup>1</sup> or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists;

(bb) To the best of the Purchaser’s knowledge, none of: (1) the Purchaser; (2) any person controlling or controlled by the Purchaser; (3) if the Purchaser is a privately-held entity, any person having a beneficial interest in the Purchaser; or (4) any person for whom the Purchaser is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or a person or entity prohibited under the OFAC Programs. Please be advised that the Company may not accept any amounts from a prospective investor if such prospective investor cannot make the representation set forth in the preceding paragraph. The Purchaser agrees to promptly notify the Company should the Purchaser become aware of any change in the information set forth in these representations. The Purchaser understands and acknowledges that, by law, the Company may be obligated to “freeze the account” of the Purchaser, either by prohibiting additional subscriptions from the Purchaser, declining any redemption requests and/or segregating the assets in the account in compliance with governmental regulations. The Purchaser further acknowledges that the Company may, by written notice to the Purchaser, suspend the redemption rights, if any, of the Purchaser if the Company reasonably deems it necessary to do so to comply with anti-money laundering regulations applicable to the Company or any of the Company’s other service providers. These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs;

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<sup>1</sup> These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

(cc) To the best of the Purchaser's knowledge, none of: (1) the Purchaser; (2) any person controlling or controlled by the Purchaser; (3) if the Purchaser is a privately-held entity, any person having a beneficial interest in the Purchaser; or (4) any person for whom the Purchaser is acting as agent or nominee in connection with this investment is a senior foreign political figure<sup>2</sup>, or any immediate family<sup>3</sup> member or close associate<sup>4</sup> of a senior foreign political figure, as such terms are defined in the footnotes below; and

(dd) If the Purchaser is affiliated with a non-U.S. banking institution (a "Foreign Bank"), or if the Purchaser receives deposits from, makes payments on behalf of, or handles other financial transactions related to a Foreign Bank, the Purchaser represents and warrants to the Company that: (1) the Foreign Bank has a fixed address, other than solely an electronic address, in a country in which the Foreign Bank is authorized to conduct banking activities; (2) the Foreign Bank maintains operating records related to its banking activities; (3) the Foreign Bank is subject to inspection by the banking authority that licensed the Foreign Bank to conduct banking activities; and (4) the Foreign Bank does not provide banking services to any other Foreign Bank that does not have a physical presence in any country and that is not a regulated affiliate.

(ee) The Purchaser acknowledges that the net cash proceeds from the Offering shall be used by the Company as general working capital.

(ff) The Purchaser will not engage in any short sales with respect to the Common Stock until the later of maturity or full conversion of the Purchaser's Notes.

**7. Representations and Warranties of the Company.** Except as otherwise disclosed herein or in the Company's SEC Filings (as defined below) the Company represents and warrants to each Purchaser that:

(a) The Company is a corporation duly organized and validly existing in good standing under the laws of the State of Nevada, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not have a Material Adverse Effect (as defined below).

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<sup>2</sup> A "senior foreign political figure" is defined as a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation. In addition, a "senior foreign political figure" includes any corporation, business or other entity that has been formed by, or for the benefit of, a senior foreign political figure.

<sup>3</sup> "Immediate family" of a senior foreign political figure typically includes the figure's parents, siblings, spouse, children and in-laws.

<sup>4</sup> A "close associate" of a senior foreign political figure is a person who is widely and publicly known to maintain an unusually close relationship with the senior foreign political figure, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the senior foreign political figure.

(b) (i) The Company has the requisite corporate power and authority to enter into and perform this Subscription Agreement, the Security Agreement, the Notes, the Warrants and all other documents necessary or desirable to effect the transactions contemplated hereby (collectively with any other documents or agreements executed in connection with the transactions contemplated hereunder, the "Transaction Documents") to which it is a party and to issue the Notes, Initial Units, if any, Subsequent Units, if any, Initial Unit Warrants, if any, Subsequent Unit Warrants, if any, Initial Unit Shares, if any, Initial Warrant Shares, if any, Initial Unit Warrant Shares, if any, and the Subsequent Unit Warrants Shares, if any (the Notes, Initial Units, Subsequent Units, Initial Unit Shares, Subsequent Unit Shares, Initial Unit Warrants, Initial Unit Warrant Shares and Subsequent Unit Warrant Shares are collectively referred to herein as the "Securities"), in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Subscription Agreement and the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby, including, without limitation, the issuance of the Securities have been duly authorized by the Company's Board of Directors (the "Board of Directors") and no further consent or authorization is required by the Company, the Board of Directors or the Company's stockholders, (iii) the Transaction Documents will be duly executed and delivered by the Company or its subsidiary (as applicable), (iv) the Transaction Documents when executed will constitute the valid and binding obligations of the Company or its subsidiary (as applicable) enforceable against the Company or its subsidiary (as applicable) in accordance with their terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies.

(c) The authorized and outstanding capital stock of the Company is described in the SEC filings. Except as set forth in the SEC Filings or as contemplated by the Transaction Documents, there are no subscriptions, convertible securities, options, warrants or other rights (contingent or otherwise) currently outstanding to purchase any of the authorized but unissued capital stock of the Company. Except as set forth in the SEC filings or as contemplated by the Transaction Documents, the Company has no obligation to issue shares of its capital stock, or subscriptions, convertible securities, options, warrants, or other rights (contingent or otherwise) to purchase any shares of its capital stock or to distribute to holders of any of its equity securities, any evidence of indebtedness or asset. No shares of the Company's capital stock are subject to a right of withdrawal or a right of rescission under any applicable securities law. There are no outstanding or authorized stock appreciation, phantom stock or similar rights with respect to the Company. To the knowledge of the Company, there are no agreements to which the Company is a party or by which it is bound with respect to the voting (including without limitation voting trusts or proxies), registration under any applicable securities laws, or sale or transfer (including without limitation agreements relating to pre-emptive rights, rights of first refusal, co-sale rights or "drag-along" rights) of any securities of the Company. To the knowledge of the Company, there are no agreements among other parties, to which the Company is not a party and by which it is not bound, with respect to the voting (including without limitation voting trusts or proxies) or sale or transfer (including without limitation agreements relating to rights of first refusal, co-sale rights or "drag-along" rights) of any securities of the Company.

(d) The Notes are and, if applicable, the securities issuable upon conversion thereof will be duly authorized and, upon issuance in accordance with the terms hereof, shall be duly issued, fully paid and nonassessable, are free from all taxes, liens and charges with respect to the issue thereof.

(e) The execution, delivery and performance of this Subscription Agreement and the other Transaction Documents by the Company and the consummation by the Company of the transactions contemplated hereby and thereby will not (i) result in a violation of the Articles of Incorporation of the Company (the "Articles of Incorporation"), any certificate of designations of any outstanding series of preferred stock of the Company or the By-Laws of the Company (the "By-Laws") or (ii) violate or conflict with, or result in a breach of any provision of, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected except for those which could not reasonably be expected to have a material adverse effect on the assets, business, condition (financial or otherwise), results of operations or future prospects of the Company (a "Material Adverse Effect"). Except those which could not reasonably be expected to have a Material Adverse Effect, the Company is not in violation of any term of or in default under its Articles of Incorporation or By-Laws. Except those which could not reasonably be expected to have a Material Adverse Effect, the Company is not in violation of any term of or in default under any material contract, agreement, mortgage, indebtedness, indenture, instrument, judgment, decree or order or any statute, rule or regulation applicable to the Company. The business of the Company is not being conducted, and shall not be conducted in violation of any material law, ordinance, or regulation of any governmental entity, except to the extent it could reasonably be expected not to have a Material Adverse Effect. Except as specifically contemplated by this Subscription Agreement and as required under the Securities Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under or contemplated by this Subscription Agreement or the Escrow Agreement in accordance with the terms hereof or thereof. All consents, authorizations, orders, filings and registrations which the Company is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof. The Company is unaware of any facts or circumstance, which might give rise to any of the foregoing.

(f) Since September 27, 2011, the Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Exchange Act (all of the foregoing and all other documents filed with the SEC prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents incorporated by reference therein, being hereinafter referred to herein as the "SEC Filings"). The SEC Filings are available to the Purchasers via the SEC's EDGAR system. As of their respective dates, the SEC Filings complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the SEC promulgated thereunder, and none of the SEC Filings, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, the audited financial statements of the Company included in the Company's SEC Filings for the fiscal years ended December 31, 2013 and December 31, 2012, and the subsequent unaudited interim financial statements included in the Company's SEC Filings (collectively, the "Financial Statements") complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements were prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such Financial Statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements), and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). As of the date hereof, there are no outstanding or unresolved comments in comment letters received from the staff of the SEC with respect to any of the SEC Filings. No other information provided by or on behalf of the Company to the Purchaser including, without limitation, information referred to in this Subscription Agreement, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) Except as set forth in the SEC filings, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending against or affecting the Company, wherein an unfavorable decision, ruling or finding would (i) adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, this Subscription Agreement or any of the documents contemplated herein, or (ii) have a Material Adverse Effect.

(h) The Company acknowledges and agrees that each Purchaser is acting solely in the capacity of an arm's length purchaser with respect to this Subscription Agreement and the transactions contemplated hereby. The Company further acknowledges that each Purchaser is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Subscription Agreement and the transactions contemplated hereby and any advice given by such Purchaser or any of their respective representatives or agents in connection with this Subscription Agreement and the transactions contemplated hereby is merely incidental to such Purchaser's purchase of the Securities. The Company further represents to the Purchasers that the Company's decision to enter into this Subscription Agreement has been based solely on the independent evaluation by the Company and its representatives.

(i) Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of any of the Securities.

(j) Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of the Securities under the Securities Act or cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of the Securities Act.

(k) The Company is not involved in any labor dispute nor, to the knowledge of the Company, is any such dispute threatened. None of the Company's employees is a member of a union, and the Company believes that its relations with its one employee are good.

(l) The Company does not own any real property. Except as set forth herein (including, without limitation on Schedule 1(f) or in the SEC filings (the "Permitted Liens")), the Company has good and marketable title to all of its personal property and assets free and clear of any material restriction, mortgage, deed of trust, pledge, lien, security interest or other charge, claim or encumbrance which would have a Company Material Adverse Effect. Except as set forth in the SEC filings, with respect to properties and assets it leases, the Company is in material compliance with such leases and holds a valid leasehold interest free of any liens, claims or encumbrances which would have a Material Adverse Effect.

(m) Except as otherwise provided in this Subscription Agreement, the Company is not obligated to offer the securities offered hereunder on a right of first refusal basis or otherwise to any third parties including, but not limited to, current or former stockholders of the Company, underwriters, brokers, agents or other third parties.

(n) The Company acknowledges that the Purchasers are relying on the representations and warranties made by the Company hereunder and in the Company's SEC Filings and that such representations and warranties are a material inducement to the Purchasers purchasing the Notes. The Company further acknowledges that without such representations and warranties of the Company made hereunder, the Purchasers would not enter into this Subscription Agreement.

(o) The Company does not have any liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Subscription Agreement.

(p) Neither the Company nor any subsidiary of the Company nor, to the Company's knowledge, any director, officer, agent, employee or Affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the OFAC.

(q) Except as described in Schedule 1(f), no indebtedness of the Company, at the Closing, will be senior to, or *pari passu* with, the Notes in right of payment, whether with respect to payment or redemptions, interest, damages, upon liquidation or dissolution or otherwise.

**8. Indemnification.** The Purchaser agrees to fully indemnify and hold harmless the Company, and its officers, directors, employees, agents, control persons and affiliates from and against all losses, liabilities, claims, damages, costs, fees and expenses whatsoever (including, but not limited to, any and all expenses incurred in investigating, preparing or defending against any litigation commenced or threatened) based upon or arising out of any actual or alleged false acknowledgment, representation or warranty, or misrepresentation or omission to state a material fact, or breach by the Purchaser of any covenant or agreement made by the Purchaser herein or in any other document delivered in connection with this Subscription Agreement.

**9. Irrevocability; Binding Effect.** The Purchaser hereby acknowledges and agrees that the subscription hereunder is irrevocable by the Purchaser, except as required by applicable law, and that this Subscription Agreement shall survive the death or disability of the Purchaser and shall be binding upon and inure to the benefit of the parties and their heirs, executors, administrators, successors, legal representatives, and permitted assigns. If the Purchaser is more than one person, the obligations of the Purchaser hereunder shall be joint and several and the agreements, representations, warranties, and acknowledgments herein shall be deemed to be made by and be binding upon each such person and such person's heirs, executors, administrators, successors, legal representatives, and permitted assigns.



**10. Modification.** This Subscription Agreement shall not be modified or waived except by an instrument in writing signed by the party against whom any such modification or waiver is sought.

**11. Notices.** Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be mailed by certified mail, return receipt requested, or delivered against receipt to the party to whom it is to be given (a) if to the Company, at 2365 Iron Point Road, Suite 190, Folsom, CA 95630, Attn: Guy A. Archbold, CEO, with a copy to Gottbetter & Partners, LLP, 488 Madison Avenue, 12<sup>th</sup> Floor, New York, NY 10022, Attn: Adam S. Gottbetter, Esq., or (b) if to the Purchaser, at the address set forth on the signature page hereof (or, in either case, to such other address as the party shall have furnished in writing in accordance with the provisions of this Section 11). Any notice or other communication given by certified mail shall be deemed given at the time of certification thereof, except for a notice changing a party's address which shall be deemed given at the time of receipt thereof.

**12. Assignability.** Except as otherwise provided herein, this Subscription Agreement and the rights, interests and obligations hereunder are not transferable or assignable by the Purchaser and the transfer or assignment of the Notes and the underlying securities shall be made only in accordance with all applicable laws.

**13. Applicable Law.** This Subscription Agreement shall be governed by and construed in accordance with the laws of the State of Colorado applicable to contracts to be wholly performed within said State.

**14. Arbitration/Mediation.** The parties agree to submit all controversies to arbitration in accordance with the provisions set forth below and understand that:

THE PARTIES HERETO AGREE TO SUBMIT ALL CONTROVERSIES TO THE EXCLUSIVE JURISDICTION OF FINRA ARBITRATION IN ACCORDANCE WITH THE PROVISIONS SET FORTH BELOW AND UNDERSTAND THAT (A) ARBITRATION IS FINAL AND BINDING ON THE PARTIES, (B) THE PARTIES ARE WAIVING THEIR RIGHTS TO SEEK REMEDIES IN COURT, INCLUDING THE RIGHT TO A JURY TRIAL, (C) PRE-ARBITRATION DISCOVERY IS GENERALLY MORE LIMITED AND DIFFERENT FROM COURT PROCEEDINGS, (D) THE ARBITRATOR'S AWARD IS NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING AND ANY PARTY'S RIGHT TO APPEAL OR TO SEEK MODIFICATION OF RULES BY ARBITRATORS IS STRICTLY LIMITED, (E) THE PANEL OF FINRA ARBITRATORS WILL TYPICALLY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY, AND (F) ALL CONTROVERSIES WHICH MAY ARISE BETWEEN THE PARTIES CONCERNING THIS SUBSCRIPTION AGREEMENT SHALL BE DETERMINED BY ARBITRATION PURSUANT TO THE RULES THEN PERTAINING TO FINRA. ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, ENFORCEMENT AND INTERPRETATION OF THIS SUBSCRIPTION AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. JUDGMENT ON ANY AWARD OF ANY SUCH ARBITRATION MAY BE ENTERED IN THE SUPREME COURT OF THE STATE OF NEW YORK OR IN ANY OTHER COURT HAVING JURISDICTION OVER THE PERSON OR PERSONS AGAINST WHOM SUCH AWARD IS RENDERED. THE PARTIES AGREE THAT THE DETERMINATION OF THE ARBITRATORS SHALL BE BINDING AND CONCLUSIVE UPON THEM. THE PREVAILING PARTY, AS DETERMINED BY SUCH ARBITRATORS, IN A LEGAL PROCEEDING SHALL BE ENTITLED TO COLLECT ANY COSTS, DISBURSEMENTS AND REASONABLE ATTORNEY'S FEES FROM THE OTHER PARTY. PRIOR TO FILING AN ARBITRATION, THE PARTIES HEREBY AGREE THAT THEY WILL ATTEMPT TO RESOLVE THEIR DIFFERENCES FIRST BY SUBMITTING THE MATTER FOR RESOLUTION TO A MEDIATOR, ACCEPTABLE TO ALL PARTIES, AND WHOSE EXPENSES WILL BE BORNE EQUALLY BY ALL PARTIES. THE MEDIATION WILL BE HELD IN THE COUNTY OF NEW YORK, STATE OF NEW YORK, ON AN EXPEDITED BASIS. IF THE PARTIES CANNOT SUCCESSFULLY RESOLVE THEIR DIFFERENCES THROUGH MEDIATION, THE MATTER WILL BE RESOLVED BY ARBITRATION. THE ARBITRATION SHALL TAKE PLACE IN THE COUNTY OF NEW YORK, THE STATE OF NEW YORK, ON AN EXPEDITED BASIS.

**15. Blue Sky Qualification.** The purchase of Notes under this Subscription Agreement is expressly conditioned upon the exemption from qualification of the offer and sale of the Units from applicable federal and state securities laws. The Company shall not be required to qualify this transaction under the securities laws of any jurisdiction and, should qualification be necessary, the Company shall be released from any and all obligations to maintain its offer, and may rescind any sale contracted, in the jurisdiction.

**16. Use of Pronouns.** All pronouns and any variations thereof used herein shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons referred to may require.

**17. Confidentiality.** The Purchaser acknowledges and agrees that any information or data the Purchaser has acquired from or about the Company, not otherwise properly in the public domain, was received in confidence. The Purchaser agrees not to divulge, communicate or disclose, except as may be required by law or for the performance of this Subscription Agreement, or use to the detriment of the Company or for the benefit of any other person or persons, or misuse in any way, any confidential information of the Company, including any scientific, technical, trade or business secrets of the Company and any scientific, technical, trade or business materials that are treated by the Company as confidential or proprietary, including, but not limited to, ideas, discoveries, inventions, developments and improvements belonging to the Company and confidential information obtained by or given to the Company about or belonging to third parties.

**18. Miscellaneous.**

(a) This Subscription Agreement, together with the attached Exhibits constitute the entire agreement between the Purchaser and the Company with respect to the subject matter hereof and supersede all prior oral or written agreements and understandings, if any, relating to the subject matter hereof. In the event that any signature is delivered by facsimile transmission or by electronic delivery of a data file containing an electronic facsimile of a signature, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile were an original thereof. The terms and provisions of this Subscription Agreement may be waived, or consent for the departure therefrom granted, only by a written document executed by the party entitled to the benefits of such terms or provisions.

(b) The representations and warranties of the Company and the Purchaser made in this Subscription Agreement shall survive the execution and delivery hereof and delivery of the Notes.

(c) Each of the parties hereto shall pay its own fees and expenses (including the fees of any attorneys, accountants, appraisers or others engaged by such party) in connection with this Subscription Agreement and the transactions contemplated hereby whether or not the transactions contemplated hereby are consummated.

(d) This Subscription Agreement may be executed in one or more counterparts each of which may be executed by less than all of the parties and shall be deemed an original, but all of which shall together constitute one and the same instrument, enforceable against the parties actually executing such counterparts. The exchange of copies of the Subscription Agreement and of signature pages by facsimile transmission or in pdf format shall constitute effective execution and delivery of this Subscription Agreement as to the parties and may be used in lieu of the original Subscription Agreement for all purposes. Signatures of the parties transmitted by facsimile or in pdf format shall be deemed to be their original signatures for all purposes.

(e) Each provision of this Subscription Agreement shall be considered separable and, if for any reason any provision or provisions hereof are determined to be invalid or contrary to applicable law, such invalidity or illegality shall not impair the operation of or affect the remaining portions of this Subscription Agreement.

(f) Paragraph titles are for descriptive purposes only and shall not control or alter the meaning of this Subscription Agreement as set forth in the text.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

**To subscribe for Notes in the private offering of Rackwise, Inc.:**

1. **Date and Fill** in the principal/fact amount of the Notes being purchased and the purchase price therefor and Complete and Sign the Signature Page of the Subscription Agreement.
  2. **Complete** and Sign the Anti-Money Laundering Information Form.
  3. **Initial** the Accredited Investor Certification page attached to this letter.
  4. **Complete** and Sign the Investor Profile.
  5. **Fax or email** all forms and then send all signed original documents to:  
  
Rackwise, Inc.  
2365 Iron Point Road, Suite 190  
Folsom, CA 95630  
Attention: Dorella Sanakidis  
Email: dsanakidis@rackwise.com
  6. **If you are paying the Purchase Price by check**, a check for the exact dollar amount of the Purchase Price for the number of Units you are offering to purchase should be made payable to the order of "Rackwise, Inc." and should be sent to Rackwise, Inc., at 2365 Iron Point Road, Suite 190, Folsom, CA 95630, Attention: Guy Archbold, CEO.
  7. **If you are paying the Purchase Price by wire transfer**, you should send a wire transfer for the exact dollar amount of the Purchase Price of the number of PPO Units you are offering to purchase according to instructions provided by the Company.
-

**RACKWISE, INC.  
OMNIBUS SIGNATURE PAGE TO  
SUBSCRIPTION AGREEMENT AND SECURITY AGREEMENT**

Purchaser hereby elects to subscribe under the Subscription Agreement for a total of \$\_\_\_\_\_ in principal/face amount of Notes (NOTE: to be completed by the Company) at an aggregate price of \$\_\_\_\_\_ or \$910 for each \$1,000 of Notes purchased (NOTE: to be completed by Purchaser) and executes the omnibus signature pages to the Subscription Agreement and the Security Agreement.

Date (NOTE: to be completed by Purchaser): \_\_\_\_\_

If the Purchaser is an INDIVIDUAL, and if purchased as JOINT TENANTS, as TENANTS IN COMMON, or as COMMUNITY PROPERTY:

_____	_____
Print Name(s)	Social Security Number(s)
_____	_____
Signature(s) of Purchaser(s)	Signature
_____	_____
Date	Address

If the Purchaser is a PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY OR TRUST:

_____	_____
Name of Partnership, Corporation, Limited Liability Company or Trust	Federal Taxpayer Identification Number
By: _____	_____
Name:	State of Organization
Title:	_____
_____	_____
Date	Address

**RACKWISE, INC.,  
a Nevada corporation**

By: \_\_\_\_\_  
Name:  
Title:

## ANTI MONEY LAUNDERING REQUIREMENTS

### **The USA PATRIOT Act**

The USA PATRIOT Act is designed to detect, deter, and punish terrorists in the United States and abroad. The Act imposes new anti-money laundering requirements on brokerage firms and financial institutions. Since April 24, 2002 all brokerage firms have been required to have new, comprehensive anti-money laundering programs.

To help you understand these efforts, we want to provide you with some information about money laundering and our steps to implement the USA PATRIOT Act.

### **What is money laundering?**

Money laundering is the process of disguising illegally obtained money so that the funds appear to come from legitimate sources or activities. Money laundering occurs in connection with a wide variety of crimes, including illegal arms sales, drug trafficking, robbery, fraud, racketeering, and terrorism.

### **How big is the problem and why is it important?**

The use of the U.S. financial system by criminals to facilitate terrorism or other crimes could well taint our financial markets. According to the U.S. State Department, one recent estimate puts the amount of worldwide money laundering activity at \$1 trillion a year.

### **What are we required to do to eliminate money laundering?**

Under rules required by the USA PATRIOT Act, our anti-money laundering program must designate a special compliance officer, set up employee training, conduct independent audits, and establish policies and procedures to detect and report suspicious transaction and ensure compliance with such laws. As part of our required program, we may ask you to provide various identification documents or other information. Until you provide the information or documents we need, we may not be able to effect any transactions for you.

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**ANTI-MONEY LAUNDERING INFORMATION FORM**

The following is required in accordance with the AML provision of the USA PATRIOT ACT.

*(Please fill out and return with requested documentation.)*

INVESTOR NAME: \_\_\_\_\_  
LEGAL ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
SSN# or TAX ID#  
OF INVESTOR: \_\_\_\_\_  
YEARLY INCOME: \_\_\_\_\_  
FOR INVESTORS WHO  
ARE INDIVIDUALS: AGE: \_\_\_\_\_  
NET WORTH: \_\_\_\_\_\*

\* For purposes of calculating your net worth in this form, (a) your primary residence shall not be included as an asset; (b) indebtedness secured by your primary residence, up to the estimated fair market value of your primary residence at the time of your purchase of the securities, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of your purchase of the securities exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of your primary residence, the amount of such excess shall be included as a liability); and (c) indebtedness that is secured by your primary residence in excess of the estimated fair market value of your primary residence at the time of your purchase of the securities shall be included as a liability.

FOR INVESTORS WHO ARE  
INDIVIDUALS: OCCUPATION: \_\_\_\_\_  
ADDRESS OF BUSINESS OR OF  
EMPLOYER: \_\_\_\_\_  
INVESTMENT OBJECTIVE(S): \_\_\_\_\_

**IDENTIFICATION & DOCUMENTATION AND SOURCE OF FUNDS:**

1. Please submit a copy of non-expired identification for the authorized signatory(ies) on the investment documents, showing name, date of birth, address and signature. **The address shown on the identification document MUST match the Investor's address shown on the Investor Signature Page.**  
Current Driver's License                                      or                                      Valid Passport                                      or                                      Identity Card  
*(Circle one or more)*
  
2. If the Investor is a corporation, limited liability company, trust or other type of entity, please submit the following requisite documents: (i) Articles of Incorporation, By-Laws, Certificate of Formation, Operating Agreement, Trust or other similar documents for the type of entity; and (ii) Corporate Resolution or power of attorney or other similar document granting authority to signatory(ies) and designating that they are permitted to make the proposed investment.
  
3. Please advise where the funds were derived from to make the proposed investment:  
Investments                                      Savings                                      Proceeds of Sale                                      Other \_\_\_\_\_  
*(Circle one or more)*

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title (if applicable): \_\_\_\_\_  
Date: \_\_\_\_\_

**RACKWISE, INC.  
ACCREDITED INVESTOR CERTIFICATION**

**For Individual Investors Only**

**(all Individual Investors must INITIAL where appropriate):**

**Initial** \_\_\_\_\_ I have a net worth of at least US\$1 million either individually or through aggregating my individual holdings and those in which I have a joint, community property or other similar shared ownership interest with my spouse. *(For purposes of calculating your net worth under this paragraph, (a) your primary residence shall not be included as an asset; (b) indebtedness secured by your primary residence, up to the estimated fair market value of your primary residence at the time of your purchase of the securities, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of your purchase of the securities exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of your primary residence, the amount of such excess shall be included as a liability); and (c) indebtedness that is secured by your primary residence in excess of the estimated fair market value of your primary residence at the time of your purchase of the securities shall be included as a liability.)*

**Initial** \_\_\_\_\_ I have had an annual gross income for the past two years of at least US\$200,000 (or US\$300,000 jointly with my spouse) and expect my income (or joint income, as appropriate) to reach the same level in the current year.

**Initial** \_\_\_\_\_ I am a director or executive officer of Rackwise, Inc.

**For Non-Individual Investors**

**(all Non-Individual Investors must INITIAL where appropriate):**

**Initial** \_\_\_\_\_ The investor certifies that it is a partnership, corporation, limited liability company or business trust that is 100% owned by persons who meet at least one of the criteria for Individual Investors set forth above.

**Initial** \_\_\_\_\_ The investor certifies that it is a partnership, corporation, limited liability company or business trust that has total assets of at least US\$5 million and was not formed for the purpose of investing the Company.

**Initial** \_\_\_\_\_ The investor certifies that it is an employee benefit plan whose investment decision is made by a plan fiduciary (as defined in ERISA §3 (21)) that is a bank, savings and loan association, insurance company or registered investment advisor.

**Initial** \_\_\_\_\_ The investor certifies that it is an employee benefit plan whose total assets exceed US\$5,000,000 as of the date of this Agreement.

**Initial** \_\_\_\_\_ The undersigned certifies that it is a self-directed employee benefit plan whose investment decisions are made solely by persons who meet at least one of the criteria for Individual Investors.

**Initial** \_\_\_\_\_ The investor certifies that it is a U.S. bank, U.S. savings and loan association or other similar U.S. institution acting in its individual or fiduciary capacity.

**Initial** \_\_\_\_\_ The undersigned certifies that it is a broker-dealer registered pursuant to §15 of the Securities Exchange Act of 1934.

**Initial** \_\_\_\_\_ The investor certifies that it is an organization described in §501(c)(3) of the Internal Revenue Code with total assets exceeding US\$5,000,000 and not formed for the specific purpose of investing in the Company.

**Initial** \_\_\_\_\_ The investor certifies that it is a trust with total assets of at least US\$5,000,000, not formed for the specific purpose of investing in the Company, and whose purchase is directed by a person with such knowledge and experience in financial and business matters that such person is capable of evaluating the merits and risks of the prospective investment.



**Initial** \_\_\_\_\_ The investor certifies that it is a plan established and maintained by a state or its political subdivisions, or any agency or instrumentality thereof, for the benefit of its employees, and which has total assets in excess of US\$5,000,000.

**Initial** \_\_\_\_\_ The investor certifies that it is an insurance company as defined in §2(13) of the Securities Act of 1933, or a registered investment company.

**For Non-U.S. Person Investors  
(all Investors who are not a U.S. Person must INITIAL this section):**

**Initial** \_\_\_\_\_ The investor is not a "U.S. Person" as defined in Regulation S; and specifically the investor is not:

- A. a natural person resident in the United States of America, including its territories and possessions ("United States");
- B. a partnership or corporation organized or incorporated under the laws of the United States;
- C. an estate of which any executor or administrator is a U.S. Person;
- D. a trust of which any trustee is a U.S. Person;
- E. an agency or branch of a foreign entity located in the United States;
- F. a non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. Person;
- G. a discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States; or
- H. a partnership or corporation: (i) organized or incorporated under the laws of any foreign jurisdiction; and (ii) formed by a U.S. Person principally for the purpose of investing in securities not registered under the Securities Act, unless it is organized or incorporated, and owned, by accredited investors (as defined in Rule 501(a) under the Securities Act) who are not natural persons, estates or trusts.

And, in addition:

- I. the investor was not offered the securities in the United States;
- J. at the time the buy-order for the securities was originated, the investor was outside the United States; and
- K. the investor is purchasing the securities for its own account and not on behalf of any U.S. Person (as defined in Regulation S) and a sale of the securities has not been pre-arranged with a purchaser in the United States.

**RACKWISE, INC.**  
**Investor Profile**

(Must be completed by the Purchaser)

**Section A - Personal Investor Information**

Investor Name(s): \_\_\_\_\_  
Individual executing Profile or Trustee: \_\_\_\_\_  
Social Security Numbers / Federal I.D. Number: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Marital Status: \_\_\_\_\_  
Joint Party Date of Birth: \_\_\_\_\_ Investment Experience (Years): \_\_\_\_\_  
Annual Income: \_\_\_\_\_ Liquid Net Worth: \_\_\_\_\_  
Net Worth (excluding value of primary residence): \_\_\_\_\_  
Tax Bracket: 15% or below 25% - 27.5% Over 27.5%

Home Street Address: \_\_\_\_\_  
Home City, State & Zip Code: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Home Fax: \_\_\_\_\_ Home Email: \_\_\_\_\_  
Employer: \_\_\_\_\_  
Employer Street Address: \_\_\_\_\_  
Employer City, State & Zip Code: \_\_\_\_\_  
Bus. Phone: \_\_\_\_\_ Bus. Fax: \_\_\_\_\_ Bus. Email: \_\_\_\_\_  
Type of Business: \_\_\_\_\_  
(PLACEMENT AGENT) Account Executive / Outside Broker/Dealer:

If you are a **United States citizen**, please list the number and jurisdiction of issuance of any other government-issued document evidencing residence and bearing a photograph or similar safeguard (such as a driver's license or passport), and provide a photocopy of each of the documents you have listed.

If you are NOT a United States citizen, for each jurisdiction of which you are a citizen or in which you work or reside, please list (i) your passport number and country of issuance or (ii) alien identification card number AND (iii) number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard, and provide a photocopy of each of these documents you have listed. These photocopies must be certified by a lawyer as to authenticity.

**Section B - Certificate Delivery Instructions**

\_\_\_\_\_ Please deliver certificate to the Employer Address listed in Section A.  
\_\_\_\_\_ Please deliver certificate to the Home Address listed in Section A.  
\_\_\_\_\_ Please deliver certificate to the following address: \_\_\_\_\_

**Section C - Form of Payment - Check or Wire Transfer**

\_\_\_\_\_ Wire funds or payment by check in accordance with the "How to subscribe for Notes" Page.  
\_\_\_\_\_ The funds for this investment are rolled over, tax deferred from \_\_\_\_\_ within the allowed 60 day window.

Please check if you are a FINRA member or affiliate of a FINRA member firm: \_\_\_\_\_

\_\_\_\_\_  
Investor Signature

\_\_\_\_\_  
Date

**Schedule 1(f)**

**Rank**

The Notes will rank senior in priority to all existing and future indebtedness of the Company except for the permitted liens (the "Permitted Liens") as set forth below:

- Debt owed by the Company to its factor, Richert Funding LLC, under the Factoring and Security Agreement, dated as of February 9, 2012, by and between the Company and Richert Funding, LLC;
  - \$50,000 in principal amount plus accrued interest due on an 8% Convertible Promissory Note of the Company dated as of August 16, 2012 and all other senior secured debt of the Company as of the date of the initial closing under the Offering;
  - Obligations which take priority as a matter of law such as the federal tax liens against the Company in connection with unpaid payroll taxes, which liens amounted to approximately \$1,567,000 as of April 11, 2014;
  - Trade debt incurred in the ordinary course of business; and
  - Such other Company indebtedness as may be expressly agreed to by the Purchaser and the Company.
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**EXHIBIT A**

**Form of Note**

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**EXHIBIT B**

**Form of Security Agreement**

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**EXHIBIT C**

**PURCHASER ACKNOWLEDGMENTS**

These Acknowledgements are being made in connection with the Subscription Agreement, dated as of May 7, 2014, by and among the Company and the undersigned Purchaser (the "Agreement"). Capitalized terms used and not defined herein have the respective meanings ascribed to them in the Agreement.

Without limiting the representations and warranties of the undersigned Purchaser ("I" or "me") contained in the Agreement, I hereby acknowledge:

- I have carefully studied the Agreement with my tax, accounting and legal advisors and understand their provisions.
- I am an "accredited investor" under the Securities Act and have extensive knowledge and experience in financial and business matters.
- I have adequate means of providing such my current financial needs and foreseeable contingencies and have no need for liquidity of my investment in the Units for an indefinite period of time.
- **My investment in the Notes is extremely risky. I can afford a complete loss of my investment and have been advised not to invest if this is not the case.**

PURCHASER:

By: \_\_\_\_\_

Name of Purchaser:

Name of Signatory:

Title of Signatory:

**EXHIBIT 10.2**

**SECURITY AGREEMENT**

This SECURITY AGREEMENT (“Agreement”) is made and entered into as of May 7, 2014, by and among Rackwise, Inc., a Nevada corporation (the “Borrower”), each subsidiary of the Borrower listed on the signature pages hereof (together with the Borrower, each a “Grantor”), and the secured parties listed on the signature pages hereof.

**WITNESSETH:**

**WHEREAS**, pursuant to that certain Subscription Agreement, dated as of May 7, 2014 (as such may be amended, restated, supplemented, or otherwise modified from time to time, including all schedules thereto, collectively, the “**Subscription Agreement**”), by and among the Borrower and each secured party listed on the Schedule of Purchasers attached thereto (each, a “Purchaser”, and collectively, the “Purchasers”), the Borrower has agreed to sell, and each of the Purchasers has agreed to purchase, severally and not jointly, the Notes;

**WHEREAS**, each Grantor other than the Borrower is a direct or indirect wholly-owned Subsidiary of the Borrower and will receive direct and substantial benefits from the purchase by each of the Secured Parties of the Notes; and

**WHEREAS**, it is a condition precedent to the Purchasers purchasing the Notes that the Borrower and each other Grantor have granted a security interest in and to the Collateral (as defined in this Agreement) to the Holders to secure all of the Borrower’s obligations under the Subscription Agreement and the Notes, on the terms and conditions set forth in this Agreement; and

**NOW, THEREFORE**, for and in consideration of the Subscription Agreement and the Notes, the other premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties covenant and agree as follows:

**1. Definitions.**

Capitalized terms used herein without definition shall have the meanings ascribed to them in the Subscription Agreement. In addition to the words and terms defined elsewhere in this Agreement, the following words and terms shall have the following meanings, unless the context otherwise clearly requires:

“Accounts” shall have the meaning given to that term in the Code and shall include without limitation all rights of each Grantor, whenever acquired, to payment for goods sold or leased or for services rendered, whether or not earned by performance.

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“Chattel Paper” shall have the meaning given to that term in the Code and shall include without limitation all writings owned by each Grantor, whenever acquired, which evidence both a monetary obligation and a security interest in or a lease of specific goods.

“Code” shall mean the Uniform Commercial Code as in effect on the date of this Agreement and as amended from time to time, of the state or states having jurisdiction with respect to all or any portion of the Collateral from time to time.

“Collateral” shall mean (i) all tangible and intangible assets of each Grantor, including, without limitation, collectively the Accounts, Chattel Paper, Deposit Accounts, Documents, Equipment, Fixtures, General Intangibles, Instruments, Intellectual Property, Inventory and Investment Property of each Grantor, and (ii) Proceeds of each of them.

“Deposit Accounts” shall have the meaning given to that term in the Code and shall include a demand, time, savings, passbook or similar account maintained with a bank, savings bank, savings and loan association, credit union, trust company or other organization that is engaged in the business of banking.

“Documents” shall have the meaning given to that term in the Code and shall include without limitation all warehouse receipts (as defined by the Code) and other documents of title (as defined by the Code) owned by each Grantor, whenever acquired.

“Equipment” shall have the meaning given to that term in the Code and shall include without limitation all goods owned by each Grantor, whenever acquired and wherever located, used or brought for use primarily in the business or for the benefit of each Grantor, and not included in Inventory of each Grantor, together with all attachments, accessories and parts used or intended to be used with any of those goods or Fixtures, whether now or in the future installed therein or thereon or affixed thereto, as well as all substitutes and replacements thereof in whole or in part.

“Event of Default” shall mean (i) any of the Events of Default described in the Notes or (ii) any default by a Grantor in the performance of its obligations under this Agreement.

“Fixtures” shall have the meaning given to that term in the Code, and shall include without limitation leasehold improvements.

“General Intangibles” shall have the meaning given to that term in the Code and shall include, without limitation, all leases under which each Grantor, now or in the future leases and or obtains a right to occupy or use real or personal property, or both, all of the other contract rights of each Grantor, whenever acquired, and customer lists, choses in action, claims (including claims for indemnification), books, records, patents, copyrights, trademarks, blueprints, drawings, designs and plans, trade secrets, methods, processes, contracts, licenses, license agreements, formulae, tax and any other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer information, software, records and data, and oil, gas, or other minerals before extraction now owned or acquired after the date of this Agreement by each Grantor.



“Holder” means each Purchaser and any person to whom a Purchaser assigns all or any portion of a Note in accordance with the terms thereof. The Holder or Holders owning a majority of the principal amount of the Notes (the “Majority Holders”) are authorized to act on behalf of all of the Holders.

“Instruments” shall have the meaning given to that term in the Code and shall include, without limitation, all negotiable instruments (as defined in the Code), all certificated securities (as defined in the Code) and all other writings which evidence a right to the payment of money now or after the date of this Agreement owned by each Grantor.

“Inventory” shall have the meaning given to that term in the Code and shall include without limitation all goods owned by each Grantor, whenever acquired and wherever located, held for sale or lease or furnished or to be furnished under contracts of service, and all raw materials, work in process and materials owned by each Grantor, and used or consumed in each Grantor’s business, whenever acquired and wherever located.

“Investment Property,” “Securities Intermediary” and “Commodities Intermediary” each shall have the meaning set forth in the Code.

“Loan Documents” shall mean collectively, this Agreement, the Notes, the Subscription Agreement, the Security Agreement, and all other agreements, documents and instruments executed and delivered in connection therewith, as each may be amended, restated, supplemented, replaced or otherwise modified from time to time in accordance with the terms thereof.

“Permitted Liens” has the meaning specified therefor in Schedule 1(f) of the Subscription Agreement.

“Proceeds” shall have the meaning given to that term in the Code and shall include without limitation whatever is received when Collateral or Proceeds are sold, exchanged, collected or otherwise disposed of, whether cash or non-cash, and includes without limitation proceeds of insurance payable by reason of loss of or damage to Collateral.

Capitalized terms not otherwise defined in this Agreement or the Subscription Agreement shall have the meanings attributed to such terms in the Code.

**2. Security Interest.**

(a) As security for the full and timely payment of the Notes in accordance with the terms of the Subscription Agreement and the performance of the obligations of the Borrower under the Subscription Agreement, the Notes and the other Transaction Documents, each Grantor agrees that the Holders shall have, and each Grantor hereby grants and conveys to and creates in favor of the Holders, a security interest under the Code in and to its Collateral, whether now owned or existing or hereafter acquired or arising and regardless of where located. The security interest granted to the Holders in this Agreement shall be a senior security interest, prior and superior to the rights of all third parties existing on or arising after the date of this Agreement, subject to the Permitted Liens.

(b) All of the Equipment, Inventory and Goods owned by each Grantor is located in the states as specified on Schedule I attached hereto (except to the extent any such Equipment, Inventory or Goods is in transit or located at such Grantor's job site in the ordinary course of business). Except as disclosed on Schedule I, no material Collateral is in the possession of any bailee, warehousemen, processor or consignee. Schedule I discloses such Borrower name as of the date hereof as it appears in official filings in the state or province, as applicable, of its incorporation, formation or organization, the type of entity of Borrower (including corporation, partnership, limited partnership or limited liability company), the organizational identification number issued by Borrower's state of incorporation, formation or organization (or a statement that no such number has been issued), and the chief place of business, chief executive officer and the office where Borrower keeps its books and records. Each Grantor has only one state or province, as applicable, of incorporation, formation or organization. Each Grantor does not do business and have not done business during the past five (5) years under any trade name or fictitious business name except as disclosed on Schedule I attached hereto.

**3. Provisions Applicable to the Collateral.**

The parties agree that the following provisions shall be applicable to the Collateral:

(a) Each Grantor covenants and agrees that at all times during the term of this Agreement it shall keep accurate and complete books and records concerning the Collateral that is now owned by the Grantor.

(b) The Holders or their representatives shall have the right, upon reasonable prior written notice to a Grantor and during the regular business hours of the Grantor, to examine and inspect the Collateral and to review the books and records of the Grantor concerning the Collateral that is now owned or acquired after the date of this Agreement by the Grantor and to copy the same and make excerpts therefrom; provided, however, that from and after the occurrence of an Event of Default, the rights of inspection and entry shall be subject to the requirements of the Code.

(c) Each Grantor shall at all times during the term of this Agreement keep the Equipment, Inventory and Fixtures that are now owned by each Grantor in the states set forth on Schedule I or, upon written notice to the Holders, at such other locations for which the Holders have filed financing statements, and in no other states without ten (10) days' prior written notice to the Holders, except that each Grantor shall have the right until one or more Events of Default shall occur to sell, move or otherwise dispose of Inventory and other Collateral in the ordinary course of business.

(d) Each Grantor shall not move the location of its principal executive offices without prior written notification to the Collateral Agent.

(e) Without the prior written consent of the Holders, each Grantor shall not sell, lease or otherwise dispose of any Equipment or Fixtures, except in the ordinary course of their business.

(f) Promptly upon request of the Majority Holders from time to time, each Grantor shall furnish the Holders with such information and documents regarding the Collateral and each Grantor's financial condition, business, assets or liabilities, at such times and in such form and detail as the Holders may reasonably request.

(g) During the term of this Agreement, each Grantor shall deliver to the Majority Holders, upon their reasonable, written request from time to time, without limitation,

(i) all invoices and customer statements rendered to account debtors, documents, contracts, chattel paper, instruments and other writings pertaining to each Grantor's contracts or the performance of each Grantor's contracts,

(ii) evidence of each Grantor's accounts and statements showing the aging, identification, reconciliation and collection thereof, and

(iii) reports as to each Grantor's inventory and sales, shipment, damage or loss thereof, all of the foregoing to be certified by authorized officers or other employees of each Grantor, and Borrower shall take all necessary action during the term of this Agreement to perfect any and all security interests in favor of each Grantor and to assign to Holders all such security interests in favor of each Grantor.

(h) Notwithstanding the security interest in the Collateral granted to and created in favor of the Holders under this Agreement, each Grantor shall have the right until one or more Events of Default shall occur, at its own cost and expense, to collect the Accounts and the Chattel Paper and to enforce their contract rights.

(i) Subject to the terms of the Permitted Liens, after the occurrence of an Event of Default, the Majority Holders shall have the right, in their sole discretion, to give notice of the Holders' security interest to account debtors obligated to each Grantor and to take over and direct collection of the Accounts and the Chattel Paper, to notify such account debtors to make payment directly to the Holders and to enforce payment of the Accounts and the Chattel Paper and to enforce each Grantor's contract rights. It is understood and agreed by each Grantor that the Majority Holders shall have no liability whatsoever under this subsection (i) except for their own gross negligence or willful misconduct.

(j) At all times during the term of this Agreement, each Grantor shall promptly deliver to the Holders, upon the written request of the Majority Holders, all existing leases, and all other leases entered into by each Grantor from time to time, covering any material Equipment or Inventory (the "Leased Inventory") which is leased to third parties.

(k) Each Grantor shall not change its name, entity status, federal taxpayer identification number, or provincial organizational or registration number, or the state under which it is organized without the prior written consent of the Majority Holders, which consent shall not be unreasonably withheld, conditioned or delayed.

(l) Each Grantor shall not close any of its Deposit Accounts or open any new or additional Deposit Accounts without first giving the Holders at least ten (10) days' prior written notice thereof; however, the Majority Holders have the power to waive a portion of the notice period if such waiver does not harm Holders' security position.

(m) Subject to restrictions resulting from the Permitted Liens, each Grantor shall cooperate with the Majority Holders, at each Grantor's reasonable expense, in perfecting Holders' security interest in any of the Collateral. Each Grantor agrees that from time to time, at its own expense, such Grantor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that the Majority Holders may reasonably request, in order to perfect and protect the security interests granted or purported to be granted hereby or to enable the Holders to exercise and enforce their rights and remedies hereunder with respect to any of the Collateral.

(n) Subject to restrictions resulting from the Permitted Liens, the Majority Holders may file any necessary financing statements and other documents they deem reasonably necessary in order to perfect the Holders' security interest without either Grantor's signature. Each Grantor grants to the Majority Holders a power of attorney for the sole purpose of executing any documents on behalf of each Grantor which the Majority Holders deem reasonably necessary to perfect Holders' security interest. Such power, coupled with an interest, is irrevocable.

4. **Actions with Respect to Accounts.**

Each Grantor irrevocably makes, constitutes and appoints the Majority Holders its true and lawful attorney-in-fact with power to sign its name and to take any of the following actions after the occurrence and prior to the cure of an Event of Default, at any time without notice to either Grantor and at each Grantor's reasonable expense, subject to the terms of the Permitted Liens:

- (a) Verify the validity and amount of, or any other matter relating to, the Collateral by mail, telephone, telegraph or otherwise;
- (b) Notify all account debtors that the Accounts have been assigned to the Holders and that the Holders have a security interest in the Accounts;
- (c) Direct all account debtors to make payment of all Accounts directly to the Holders;
- (d) Take control in any reasonable manner of any cash or non-cash items of payment or proceeds of Accounts;
- (e) Receive, open and respond to all mail addressed to each Grantor;
- (f) Take control in any manner of any rejected, returned, stopped in transit or repossessed goods relating to Accounts;
- (g) Enforce payment of and collect any Accounts, by legal proceedings or otherwise, and for such purpose the Holders may:
  - (i) Demand payment of any Accounts or direct any account debtors to make payment of Accounts directly to the Holders;
  - (ii) Receive and collect all monies due or to become due to each Grantor pursuant to the Accounts;
  - (iii) Exercise all of each Grantor's rights and remedies with respect to the collection of Accounts;
  - (iv) Settle, adjust, compromise, extend, renew, discharge or release Accounts in a commercially reasonable manner;
  - (v) Sell or assign Accounts on such reasonable terms, for such reasonable amounts and at such reasonable times as the Holders reasonably deem advisable;

(vi) Prepare, file and sign each Grantor's name or names on any Proof of Claim or similar documents in any proceeding filed under federal or state bankruptcy, insolvency, reorganization or other similar law as to any account debtor;

(vii) Prepare, file and sign each Grantor's name or names on any notice of lien, claim of mechanic's lien, assignment or satisfaction of lien or mechanic's lien or similar document in connection with the Collateral;

(viii) Endorse the name of each Grantor upon any chattel papers, documents, instruments, invoices, freight bills, bills of lading or similar documents or agreements relating to Accounts or goods pertaining to Accounts or upon any checks or other media of payment or evidence of a security interest that may come into the Holders' possession;

(ix) Sign the name or names of each Grantor to verifications of Accounts and notices of Accounts sent by account debtors to each Grantor; or

(x) Take all other actions that the Holders reasonably deem to be necessary or desirable to protect each Grantor's interest in the Accounts.

(h) Negotiate and endorse any Document in favor of the Holders or their designees, covering Inventory which constitutes Collateral, and related documents for the purpose of carrying out the provisions of this Agreement and taking any action and executing in the name(s) of Borrower any instrument which the Majority Holders may reasonably deem necessary or advisable to accomplish the purpose hereof. Without limiting the generality of the foregoing, the Majority Holders shall have the right and power to receive, endorse and collect checks and other orders for the payment of money made payable to each Grantor representing any payment or reimbursement made under, pursuant to or with respect to, the Collateral or any part thereof and to give full discharge to the same. Each Grantor does hereby ratify and approve all acts of said attorney and agrees that said attorney shall not be liable for any acts of commission or omission, nor for any error of judgment or mistake of fact or law, except for said attorney's own gross negligence or willful misconduct. This power, being coupled with an interest, is irrevocable until the Notes are paid in full (at which time this power shall terminate in full) and each Grantor shall have performed all of its obligations under this Agreement. Each Grantor further agrees to use its reasonable efforts to assist the Collateral Agent in the collection and enforcement of the Accounts and will not hinder, delay or impede the Majority Holders in any manner in their collection and enforcement of the Accounts.

**5. Preservation and Protection of Security Interest.**

Each Grantor represents and warrants that it has, and covenants and agrees that at all times during the term of this Agreement, it will have, good and marketable title to the Collateral now owned by it free and clear of all mortgages, pledges, liens, security interests, charges or other encumbrances, except for the Permitted Liens and those junior in right of payment and enforcement to that of the Holders or in favor of the Holders, and shall defend the Collateral against the claims and demands of all persons, firms and entities whomsoever. Assuming the Majority Holders have taken all required action to perfect a security interest in the Collateral as provided by the Code, each Grantor represents and warrants that as of the date of this Agreement the Holders have, and that all times in the future the Holders will have, a first priority perfected security interest in the Collateral, prior and superior to the rights of all third parties in the Collateral existing on the date of this Agreement or arising after the date of this Agreement, subject to the Permitted Liens. Except as permitted by this Agreement, each Grantor covenants and agrees that it shall not, without the prior written consent of the Majority Holders (i) borrow against the Collateral or any portion of the Collateral from any other person, firm or entity, except for borrowings which are subordinate to the rights of the Holders, (ii) grant or create or permit to attach or exist any mortgage, pledge, lien, charge or other encumbrance, or security interest on, of or in any of the Collateral or any portion of the Collateral except those in favor of the Holders or the Permitted Liens, (iii) permit any levy or attachment to be made against the Collateral or any portion of the Collateral, except those subject to the Permitted Liens, or (iv) permit any financing statements to be on file with respect to any of the Collateral, except financing statements in favor of the Holders or those with respect to the Permitted Liens. Each Grantor shall faithfully preserve and protect the Holders' security interest in the Collateral and shall, at its own reasonable cost and expense, cause, or assist the Majority Holders to cause that security interest to be perfected and continue perfected so long as the Notes or any portion of the Notes are outstanding, unpaid or executory. For purposes of the perfection of the Holders' security interest in the Collateral in accordance with the requirements of this Agreement, each Grantor shall from time to time at the request of the Holders file or record, or cause to be filed or recorded, such instruments, documents and notices, including assignments, financing statements and continuation statements, as the Majority Holders may reasonably deem necessary or advisable from time to time in order to perfect and continue perfected such security interest. Each Grantor shall do all such other acts and things and shall execute and deliver all such other instruments and documents, including further security agreements, pledges, endorsements, assignments and notices, as the Majority Holders in their discretion may reasonably deem necessary or advisable from time to time in order to perfect and preserve the priority of such security interest as a first lien security interest in the Collateral prior to the rights of all third persons, firms and entities, subject to the Permitted Liens and except as may be otherwise provided in this Agreement. Each Grantor agrees that a carbon, photographic or other reproduction of this Agreement or a financing statement is sufficient as a financing statement and may be filed instead of the original.

**6. Insurance.**

Risk of loss of, damage to or destruction of the Equipment, Inventory and Fixtures is on each Grantor. Each Grantor shall insure the Equipment, Inventory and Fixtures against such risks and casualties and in such amounts and with such insurance companies as is ordinarily carried by corporations or other entities engaged in the same or similar businesses and similarly situated or as otherwise reasonably required by the Majority Holders in their sole discretion. In the event of loss of, damage to or destruction of the Equipment, Inventory or Fixtures during the term of this Agreement, each Grantor shall promptly notify the Majority Holders of such loss, damage or destruction. At the reasonable request of the Majority Holders, each Grantor's policies of insurance shall contain loss payable clauses in favor of each Grantor and the Holders as their respective interests may appear and shall contain provision for notification of the Holders thirty (30) days prior to the termination of such policy. At the request of the Majority Holders, copies of all such policies, or certificates evidencing the same, shall be deposited with the Holders. If any Grantor fails to effect and keep in full force and effect such insurance or fail to pay the premiums when due, the Majority Holders may (but shall not be obligated to) do so for the account of such Grantor and add the cost thereof to the Notes. The Majority Holders are irrevocably appointed attorney-in-fact of each Grantor to endorse any draft or check which may be payable to each Grantor in order to collect the proceeds of such insurance. Unless an Event of Default has occurred and is continuing, the Holders will turn over to each Grantor the proceeds of any such insurance collected by the Holder on the condition that each Grantor apply such proceeds either (i) to the repair of damaged Equipment, Inventory or Fixtures, or (ii) to the replacement of destroyed Equipment, Inventory or Fixtures with Equipment, Inventory or Fixtures of the same or similar type and function and of at least equivalent value (in the sole judgment of the Majority Holders), provided such replacement Equipment, Fixtures or Inventory is made subject to the security interest created by this Agreement and constitutes a first lien security interest in the Equipment, Inventory and Fixtures subject only to Permitted Liens and other security interests permitted under this Agreement, and is perfected by the filing of financing statements in the appropriate public offices and the taking of such other action as may be necessary or desirable in order to perfect and continue perfected such security interest. Any balance of insurance proceeds remaining in the possession of the Holders after payment in full of the Notes shall be paid over to the applicable Grantor or its order.

**7. Maintenance and Repair.**

Each Grantor shall maintain the Equipment, Inventory and Fixtures, and every portion thereof, in good condition, repair and working order, reasonable wear and tear alone excepted, and shall pay and discharge all taxes, levies and other impositions assessed or levied thereon as well as the cost of repairs to or maintenance of the same. If any Grantor fails to do so, the Holders may (but shall not be obligated to) pay the cost of such repairs or maintenance and such taxes, levies or impositions for the account of such Grantor and add the amount of such payments to the principal of the Notes



**8. Preservation of Rights against Third Parties; Preservation of Collateral in Holders' Possession.**

Until such time as the Holders exercise their right to effect direct collection of the Accounts and the Chattel Paper and to effect the enforcement of each Grantor's contract rights, each Grantor assumes full responsibility for taking any and all commercially reasonable steps to preserve rights in respect of the Accounts and the Chattel Paper and their contracts against prior parties. The Holders shall be deemed to have exercised reasonable care in the custody and preservation of such of the Collateral as may come into its possession from time to time if the Holders take such action for that purpose as the relevant Grantor shall request in writing, provided that such requested action shall not, in the judgment of the Holders, impair the Holders' security interest in the Collateral or its right in, or the value of, the Collateral, and provided further that the Holders receive such written request in sufficient time to permit the Holders to take the requested action.

**9. Events of Default and Remedies.**

(a) If any one or more of the Events of Default shall occur or shall exist, the Majority Holders may then or at any time thereafter, so long as such default shall continue, foreclose the lien or security interest in the Collateral in any way permitted by law, or upon twenty (20) days' prior written notice to the relevant Grantor, sell any or all Collateral at private sale at any time or place in one or more sales, at such price or prices and upon such terms, either for cash or on credit, as the Majority Holders, in their sole discretion, may elect, or sell any or all Collateral at public auction, either for cash or on credit, as the Majority Holders, in their sole discretion, may elect, and at any such sale, the Majority Holders, on behalf of the Holders, may bid for and become the purchaser of any or all such Collateral. Pending any such action the Majority Holders may liquidate the Collateral.

(b) If any one or more of the Events of Default shall occur or shall exist, the Majority Holders may then, or at any time thereafter, so long as such default shall continue, grant extensions to, or adjust claims of, or make compromises or settlements with, debtors, guarantors or any other parties with respect to Collateral or any securities, guarantees or insurance applying thereon, without notice to or the consent of any Grantor, without affecting each Grantor's liability under this Agreement or the Notes. Each Grantor waives notice of acceptance, of nonpayment, protest or notice of protest of any Accounts or Chattel Paper, any of its contract rights or Collateral and any other notices to which each Grantor may be entitled.

(c) If any one or more of the Events of Default shall occur or shall exist and be continuing, then in any such event, the Majority Holders shall have such additional rights and remedies in respect of the Collateral or any portion thereof as are provided by the Code and such other rights and remedies in respect thereof which they may have at law or in equity or under this Agreement, including without limitation the right to enter any premises where Equipment, Inventory and/or Fixtures are located and take possession and control thereof without demand or notice and without prior judicial hearing or legal proceedings, which each Grantor expressly waives.

(d) The Majority Holders shall apply the Proceeds of any sale or liquidation of the Collateral, and, subject to Section 5, any Proceeds received by the Majority Holders from insurance, first to the payment of the reasonable costs and expenses incurred by the Collateral Agent in connection with such sale or collection, including without limitation reasonable attorneys' fees and legal expenses; second to the payment of the Notes, pro rata, whether on account of principal or interest or otherwise as the Collateral Agent, in its sole discretion, may elect, and then to pay the balance, if any, to the relevant Grantor or as otherwise required by law. If such Proceeds are insufficient to pay the amounts required by law, the Grantors shall be liable for any deficiency.

(e) Upon the occurrence of any Event of Default, each Grantor shall promptly upon written demand by the Majority Holders assemble the Equipment, Inventory and Fixtures and make them available to the Holders at a place or places to be designated by the Majority Holders. The rights of the Majority Holders under this paragraph to have the Equipment, Inventory and Fixtures assembled and made available to them is of the essence of this Agreement and the Majority Holders may, at their election, enforce such right by an action in equity for injunctive relief or specific performance, without the requirement of a bond.

**10. Defeasance.**

Notwithstanding anything to the contrary contained in this Agreement upon the earlier of (i) payment and performance in full of the Notes or (ii) the conversion of the Notes, this Agreement shall terminate and be of no further force and effect and the Holders shall thereupon terminate their security interest in the Collateral. Until such time, however, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns, provided that, without the prior written consent of the Majority Holders, no Grantor may assign this Agreement or any of its rights under this Agreement or delegate any of its duties or obligations under this Agreement and any such attempted assignment or delegation shall be null and void. This Agreement is not intended and shall not be construed to obligate the Holders to take any action whatsoever with respect to the Collateral or to incur expenses or perform or discharge any obligation, duty or disability of any Grantor.

**11. Miscellaneous.**

(a) The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall for any reason be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability of such provision in any other jurisdiction or any other provision of this Agreement in any jurisdiction.

(b) No failure or delay on the part of the Holders in exercising any right, remedy, power or privilege under this Agreement and the Notes shall operate as a waiver thereof or of any other right, remedy, power or privilege of the Holders under this Agreement, the Notes or any of the other Loan Documents; nor shall any single or partial exercise of any such right, remedy, power or privilege preclude any other right, remedy, power or privilege or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges of the Holders under this Agreement, the Notes and the other Loan Documents are cumulative and not exclusive of any rights or remedies which they may otherwise have.

(c) Unless otherwise provided herein, all demands, notices, consents, service of process, requests and other communications hereunder shall be in writing and shall be delivered in person or by overnight courier service, or mailed by certified mail, return receipt requested, addressed:

If to Borrower or any other Grantor: At the address for the Borrower set forth in the Subscription Agreement

If to the Holder: At the address for such Holder set forth in the Holder's signature page to the Subscription Agreement or the address otherwise communicated by such Holder to the Borrower in writing for such notice purposes.

Any such notice shall be effective when delivered, if delivered by hand delivery, overnight courier service, or U.S. Mail return receipt requested.

(d) The section headings contained in this Agreement are for reference purposes only and shall not control or affect its construction or interpretation in any respect.

(e) Unless the context otherwise requires, all terms used in this Agreement which are defined by the Code shall have the meanings stated in the Code.

(f) The Code shall govern the settlement, perfection and the effect of attachment and perfection of the Holders' security interest in the Collateral, and the rights, duties and obligations of the Holders and each Grantor with respect to the Collateral. This Agreement shall be deemed to be a contract under the laws of the State of Colorado and the execution and delivery of this Agreement and, to the extent not inconsistent with the preceding sentence, the terms and provisions of this Agreement shall be governed by and construed in accordance with the laws of that State. **EACH GRANTOR HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(g) This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. All of such counterparts shall be read as though one, and they shall have the same force and effect as though all the signers had signed a single page. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such signature page shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

*[Signature Page Follows]*

IN WITNESS WHEREOF, and intending to be legally bound, the parties have executed and delivered this Security Agreement as of the day and year set forth at the beginning of this Security Agreement.

**GRANTORS:**

**RACKWISE, INC.,**  
a Nevada corporation

By: /s/ Guy A. Archbold  
Name: Guy A. Archbold  
Title: Chief Executive Officer and President

**VISUAL NETWORK DESIGN, INC.,**  
a Delaware corporation

By: /s/ Guy A. Archbold  
Name: Guy A. Archbold  
Title: Chief Executive Officer

***[SECURED PARTIES SIGN BY EXECUTING OMNIBUS SIGNATURE PAGE  
TO THE SUBSCRIPTION AGREEMENT]***

[SIGNATURE PAGE TO SECURITY AGREEMENT]

**Schedule I**

1. State(s)/Jurisdictions in which Collateral is located:

California  
North Carolina

2. Grantor Information:

**Grantor**

Rackwise, Inc.  
a Nevada corporation  
NV Entity No.: E0404132010-9

Executive Offices Address:

2365 Iron Point Road, Suite 190  
Folsom, CA 95630  
Chief Executive Officer: Guy A. Archbold

Visual Network Design, Inc.,  
a Delaware corporation  
NV Entity No.: 3612213

Executive Offices Address:

2365 Iron Point Road, Suite 190  
Folsom, CA 95630  
Chief Executive Officer: Guy A. Archbold