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NIGHTHAWK SYSTEMS INC

Form 424B3

December 03, 2004

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FILE NO. 333-120179

PROSPECTUS
NIGHTHAWK SYSTEMS, INC.
OFFERING UP TO 52,864,500 COMMON SHARES

This prospectus relates to the resale of up to 2,614,500 shares of our common stock pursuant to a Special Warrant sale to individual accredited investors, the resale of up to 48,250,000 shares of our common stock by Dutchess Private Equities Fund, II, LP pursuant to a Debenture Agreement, a warrant and an Investment Agreement, and the resale of up to 2,000,000 shares of our common stock by U.S. Euro Securities, Inc. pursuant to the Investment Agreement. We have received cash proceeds from the sale of the Special Warrants and the issuance of the convertible debentures under the Debenture Agreement with Dutchess, and expect to receive cash proceeds from any "puts" pursuant to the Investment Agreement we have entered into with Dutchess. All costs associated with this registration will be borne by us.

Dutchess, First Associates and U.S. Euro Securities are "underwriters" within the meaning of the Securities Act of 1933, as amended, in connection with the resale of our common stock under the Investment Agreements. In connection with the Debenture Agreement, U.S. Euro Securities received a cash commission of 5% and 100,000 shares of our restricted common stock. In connection with the Investment Agreement, U.S. Euro Securities will receive a cash commission of 5% of cash provided under the agreement and 2,000,000 shares of common stock, which are being registered under this prospectus. In connection with the Special Warrants, First Associates received a cash commission of 8%, or \$18,592, of the gross proceeds from the sale of the Special Warrants and 12.5% of the amount of Special Warrants sold for a total number of Special Warrants for First Associates of 145,250.

1

The shares of common stock are being offered for sale by the selling stockholders at prices established on the Over-the-Counter Bulletin Board or in negotiated transactions during the term of this offering. Our common stock is quoted on the Over-the-Counter Bulletin Board under the symbol NIHK.OB. On November 18, 2004, the last reported closing sale price of our common stock was \$0.125 per share.

THIS INVESTMENT INVOLVES A HIGH DEGREE OF RISK.
YOU SHOULD PURCHASE SECURITIES ONLY IF YOU CAN AFFORD A COMPLETE LOSS.
SEE "RISK FACTORS" BEGINNING ON PAGE 8.

You should rely only on the information provided in this prospectus or any supplement to this prospectus and information incorporated by reference. We have not authorized anyone else to provide you with different information. Neither the delivery of this prospectus nor any distribution of the shares of common stock pursuant to this prospectus shall, under any circumstances, create any implication that there has been no change in our affairs since the date of this prospectus.

Neither the Securities and Exchange Commission nor any state securities regulator has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. It is a criminal offense to make any

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representation to the contrary.

The date of this prospectus is December 3, 2004.

TABLE OF CONTENTS

PROSPECTUS SUMMARY	2
RISK FACTORS	6
USE OF PROCEEDS	10
DETERMINATION OF OFFERING PRICE	11
DILUTION	11
SELLING SECURITY HOLDERS	12
PLAN OF DISTRIBUTION	13
LEGAL PROCEEDINGS	15
DIRECTORS, EXECUTIVE OFFICERS, PROMOTERS AND CONTROL PERSONS	15
SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT	16
INTEREST OF NAMED EXPERTS AND COUNSEL	18
CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS	19
DESCRIPTION OF BUSINESS	19
MANAGEMENT'S DISCUSSION AND ANALYSIS OR PLAN OF OPERATION	23
DESCRIPTION OF PROPERTY	29
CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS	30
MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS	31
EXECUTIVE COMPENSATION	31
FINANCIAL STATEMENTS	F-1 - F-30

PROSPECTUS SUMMARY

The following information is a summary of the prospectus and it does not contain all of the information you should consider before making an investment decision. You should read the entire prospectus carefully, including the financial statements and the notes relating to the financial statements.

OUR COMPANY

We design and manufacture intelligent remote monitoring and power control products that are easy to use, inexpensive and can remotely control virtually any device from any location. Our products save consumers and businesses time, effort and expense by eliminating the need for a person to be present when and where an action needs to be taken. Currently, most commercial control applications utilize telephone lines, which tether the system to a single location and have associated installation and monthly charges. Our wireless products eliminate installation costs and monthly charges for telephone lines. This wireless application also allows businesses and consumers to remotely control unmanned or remote locations that may operate on traditional electrical power, or solar or battery generated power. By utilizing existing wireless technology, we give our users the flexibility to move their application from place to place, without re-engineering their network.

Active applications for our intelligent products include, but are not limited to:

- Rebooting unmanned computer stations;
- Remote switching of residential power;
- Managing power on an electrical grid;
- Activation/deactivation of alarm and warning devices;
- Displaying or changing a digital or printed message or warning signs;
- Turning pumps on or off; and
- Turn on heating or cooling equipment.

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2

Our proprietary, wireless products are easily integrated into third-party products, systems and processes. They allow for intelligent control by interpreting instructions sent via paging and satellite media, and executing the instructions by 'switching' the electrical current that powers the device, system or process. Our intelligent products can be activated individually or in pre-defined groups for specified time periods with a simple click of a mouse or by dialing a telephone number.

We are a publicly traded company, which trades on the Over-the-Counter bulletin Board of the National Quotation Service under the ticker symbol "NIHK.OB"

HOW TO CONTACT US

Our executive offices are located at 10715 Gulfdale, Suite 200, San Antonio, Texas 78216. Our phone number is 210-341-4811. Our manufacturing facility is located at 8300 East Pacific Place, Suite 204, Denver, Colorado 80231. Our website address is www.nighthawksystems.com. Information contained on our website does not constitute part of this report and our website address should not be used as a hyperlink to our website.

SALES BY OUR SELLING STOCKHOLDERS

This prospectus relates to the resale of up to 2,614,500 shares of our common stock pursuant to a Special Warrant sale to individual accredited investors, the resale of up to 48,250,000 shares of our common stock by Dutchess pursuant to a Debenture Agreement, a warrant and an Investment Agreement, and the resale of up to 2,000,000 shares of our common stock by U.S. Euro Securities pursuant to the Investment Agreement.

The table below sets forth the shares that we are registering pursuant to the Registration Statement to which this prospectus is a part:

Stockholder	Number of Shares
Dutchess Private Equities Fund II, LP	48,250,000 shares (1)
U.S. Euro Securities	2,000,000 shares
Christopher Vorberg	1,100,000 shares
Rod Saville	600,000 shares
Douglas Hunter	500,000 shares
Fraser Hindson	124,000 shares
First Associates	290,500 shares (2)
Total common stock being registered	52,864,500 shares

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Dutchess Private Equities Fund II, LP	48,250,000 shares (1)
U.S. Euro Securities	2,000,000 shares
Christopher Vorberg	1,100,000 shares
Rod Saville	600,000 shares
Douglas Hunter	500,000 shares
Fraser Hindson	124,000 shares
First Associates	290,500 shares (2)
Total common stock being registered	52,864,500 shares

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(1) For the purpose of determining the number of shares subject to registration with the Securities and Exchange Commission, we have assumed that we will issue not more than 40,000,000 shares pursuant to the exercise of our put right under the Investment Agreement, although the number of shares that we will actually issue pursuant to that put right may be more than or less than 40,000,000, depending on the trading price of our common stock. We currently have no intent to exercise the put right in a manner that would result in our issuance of more than 40,000,000 shares, but if we were to exercise the put right in that manner, we would be required to file a subsequent registration statement with the Securities and Exchange Commission and for that registration statement to be deemed effective prior to the issuance of any such additional shares. Under our Debenture Agreement with Dutchess, we are also required to register for resale four times the number of shares (2,000,000) that the \$250,000 in convertible debentures would be convertible into based upon the conversion price when we signed the Debenture Agreement of \$0.125 per share. Therefore, we are registering 8,000,000 shares of our common stock for resale in connection with the future conversion of the convertible debentures with Dutchess. We are also registering 250,000 shares of our common stock pursuant to a warrant issued to Dutchess which gives them the right to purchase 250,000 shares of our common stock for \$0.125 per share for a period of five years.

3

(2) Our Special Warrant offering included an option for First Associates to purchase an additional 12.5%, or 145,250, of the total number of Special Warrants sold. Each Special Warrant is convertible into one share of our common stock and one common stock purchase warrant to purchase a share of our common stock for \$0.30 per share. We sold 1,162,000 Special Warrants and First Associates has not exercised its right to purchase any Special Warrants.

THE OFFERING

Common stock offered 52,864,500 shares

Use of proceeds We will not receive any proceeds from the sale by the selling stockholders of our common stock. We expect to receive cash proceeds from any "puts" pursuant to the Investment Agreement we have entered into with Dutchess. The proceeds from our exercise of the put right pursuant to the Investment Agreement will be used for working capital and general corporate expenses, expansion of internal operations, and potential acquisition costs. See "Use of Proceeds."

Symbol for our common stock Our common stock trades on the OTCBB Market under the symbol "NIHK.OB"

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Shares of common stock outstanding as of November 18, 2004

Shares of common stock potentially issuable upon exercise of the put right to Dutchess Private Equities Fund II

Shares of common stock issuable upon conversion of Convertible Debentures by Dutchess Private Equities Fund II

Shares of common stock issuable upon exercise of a warrant By Dutchess Private Equities Fund II

Shares of common stock issuable upon exercise of Special Warrants

Total

(1) Assumes no:

-Exercise of vested options to purchase 1,280,534 shares of common stock outstanding as of November 18, 2004 under the Nighthawk Systems, Inc. 2003 Stock Option Plan.

- Conversion of \$150,000 convertible note into 750,000 shares as of November 18, 2004.

- Exercise of outstanding vested warrants to purchase common stock at November 18, 2004, as follows:

4

Holder	Shares of Common Stock	Exercise Price	Expiration Date
Private Placement	75,000	.20	11/05/2004
Private Placement	150,000	.20	11/06/2004
Private Placement	2,857,143	.07	03/31/2005
Private Placement	150,000	.25	04/01/2005

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Private Placement	25,000	.25	06/06/2005
Private Placement	300,000	.25	11/07/2005
Private Placement	600,000	.25	12/01/2005
Private Placement	333,333	.25	01/16/2006
Private Placement	40,000	.25	01/18/2006
Private Placement	100,000	.25	01/19/2006
Private Placement	40,000	.25	01/22/2006
Private Placement	60,000	.25	02/18/2006
Private Placement	200,000	.25	02/23/2006
Private Placement	55,000	.25	03/04/2006
Private Placement	30,000	.25	03/25/2006
Note Conversion	375,000	.25	06/30/2006
Note Conversion	739,423	.25	08/23/2006
Total	6,129,899		

THE SPECIAL WARRANT OFFERING

We completed our Special Warrant Offering on June 30, 2004. This prospectus relates to the resale of up to 2,614,500 shares of our common stock by selling shareholders who may acquire the shares pursuant to the sale of Common Stock Units. Under the terms of those sales, we sold Special Warrants for \$0.20. Each Special Warrant is convertible into a single share of our common stock and a purchase warrant entitling the holder to purchase an additional share of our common stock for \$0.30. The Special Warrants may be exercised at any time before the expiration date, which is defined as the earlier of:

(a) five business days following the date on which we receive the last of (i) the SEC declares this registration statement effective, and (ii) the final prospectus is filed with the SEC and

(b) August 10, 2005

THE DEBENTURE OFFERING

This prospectus also relates to the resale of up to 8,250,000 shares of our common stock by Dutchess, who will become a stockholder pursuant to our Debenture Agreement. Under the Debenture Agreement, Dutchess paid us \$250,000. Dutchess also received a common stock purchase warrant entitling them to purchase up to 250,000 shares of common stock at a price of \$0.125 per share. The warrant expires on August 10, 2009.

We will pay an 8% annual coupon on the unpaid principal amount of the debentures. Prior to the SEC declaring the registration statement effective for the shares underlying the debentures, we will make mandatory prepaid payments, in advance, on the coupon in the amount of one-twelfth of the annual payment, per month,

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pursuant to each tranche. These coupon payments began on August 15th, 2004, and all subsequent coupon payments are due on the fifteenth calendar day of each month thereafter.

When the SEC has declared the Registration Statement effective, we must pay the coupon at the time of each conversion until the principal amount hereof is paid in full or has been converted into shares of our registered common stock. The interest paid in common stock, shall be delivered to Dutchess, or per Dutchess' instructions, within three business days of the date of conversion. The debentures are subject to automatic conversion at the end of three years from the date of issuance at which time all debentures outstanding will be automatically converted.

5

THE INVESTMENT AGREEMENT

This prospectus also relates to the resale of up to 40,000,000 shares of our common stock by Dutchess, who will become a stockholder pursuant to our Investment Agreement. Under the Investment Agreement, we are allowed to "put" to Dutchess up to \$10,000,000. We shall not be entitled to submit a put notice until after the previous put has been completed. The purchase price for the common stock identified in the put notice shall be equal to 95% of the lowest closing best bid price of the common stock during the five consecutive trading day period immediately following the date of our notice to them of our election to put shares.

As part of the Investment Agreement with Dutchess, we paid a commission to U.S. Euro Securities, of 2,000,000 shares of our common stock. These shares are also being registered under this prospectus.

We can only put shares to Dutchess under the Investment Agreement when we meet the following conditions:

- A registration statement has been declared effective and remains effective for the resale of the common stock subject to the Equity Line of Credit;
- Our common stock has not been suspended from trading for a period of five consecutive trading days and we have not have been notified of any pending or threatened proceeding or other action to delist or suspend our common stock;
- We have complied with our obligations under the Investment Agreement and the Registration Rights Agreement;
- No injunction has been issued and remains in force, or action commenced by a governmental authority which has not been stayed or abandoned, prohibiting the purchase or the issuance of our common stock; or
- The issuance of the common stock will not violate any shareholder approval requirements of any exchange or market where our securities are traded.

The Investment Agreement will terminate when any of the following events occur:

- Dutchess Private Equities Fund has purchased an aggregate of \$10,000,000 of our common stock; or
- 36 months after the SEC declares this registration statement effective.

RISK FACTORS

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An investment in our common stock involves a high degree of risk. You should carefully consider the following risk factors, other information included in this prospectus and information in our periodic reports filed with the SEC. If any of the following risks actually occur, our business, financial condition or results of operations could be materially and adversely affected, and you may lose some or all of your investment.

RISKS RELATED TO OUR BUSINESS

WE HAVE A HISTORY OF LOSSES SINCE INCEPTION AND IF WE CONTINUE TO INCUR LOSSES, THE PRICE OF OUR SHARES CAN BE EXPECTED TO FALL.

We expect to continue to incur losses in the foreseeable future as we expend substantial resources on sales, marketing and research and development of our products. From the effective date of our reverse merger in February 2002 up to the end of the second quarter of the present fiscal year, we have incurred cumulative losses of \$4,500,320. If we continue to incur losses, the price of our shares can be expected to fall. We may continue to incur substantial and continuing net losses beyond the next six months. We may never generate substantial revenues or reach profitability.

OUR INDEPENDENT ACCOUNTANTS HAVE ISSUED A GOING CONCERN OPINION AND IF WE CANNOT OBTAIN ADDITIONAL FINANCING, WE MAY HAVE TO CURTAIL OPERATIONS AND MAY ULTIMATELY CEASE TO EXIST.

Our auditors, Gelfond Hochstadt Pangburn, PC, included an explanatory paragraph in their Report of Independent Registered Public Accounting Firm on our December 31, 2003 consolidated financial statements indicating that as of March 12, 2004, there is substantial doubt about our ability to continue as a going concern. We will require additional funds in the future, and any independent auditors report on our future financial statements may include a similar explanatory paragraph if we are unable to raise sufficient funds or generate sufficient cash from operations to cover the cost of our operations. The existence of the explanatory paragraph may adversely affect our relationship with prospective customers, suppliers and potential investors, and therefore could have a material adverse effect on our business, financial condition and results of operations.

6

OUR CONTINUED EXISTENCE IS DEPENDENT UPON OUR ABILITY TO RAISE ADDITIONAL CAPITAL, WHICH MAY NOT BE READILY AVAILABLE.

There is currently limited experience upon which to assume that our business will prove financially profitable or generate more than nominal revenues. From inception, we have generated funds primarily through the sale of securities. We may not be able to continue to sell additional securities. We expect to raise funds in the future through sales of our debt or equity securities until a time, if ever, that we are able to operate profitably. We may not be able to obtain funds in this manner or on terms that are beneficial to us. For the six months ended June 30, 2004 we used funds in our operations of approximately \$413,000. Using that as a basis for estimating cash requirements for the next twelve months, our cash needs would approximate \$816,000 through June 30, 2005. Our inability to obtain needed funding can be expected to have a material adverse effect on our operations and our ability to achieve profitability. If we fail to generate increased revenues or fail to sell additional securities you may lose all or a substantial portion of your investment.

WE DEPEND ON CERTAIN CUSTOMERS AND IF WE LOSE ONE OF OUR SIGNIFICANT CUSTOMERS, OUR REVENUES MAY SUBSTANTIALLY DECREASE AND OUR BUSINESS MAY FAIL.

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During the year ended December 31, 2003, two orders from Mercury Online Solutions and one order from Alabama Municipal Electric Authority generated 47% and 31% of our revenues, respectively. Several orders from Mercury Online Solutions represented 44% of our revenue during the six month period ended June 30, 2004, and we still had approximately \$70,000 remaining to be billed to Alabama Municipal Electric Authority as of June 30, 2004 under their order. If either of these two customers stop generating orders for us altogether, and we are unable to obtain comparable orders from other customers, our revenues would decrease and our business could fail.

OUR DEPENDENCE ON PROPRIETARY TECHNOLOGY AND A LIMITED ABILITY TO PROTECT OUR INTELLECTUAL PROPERTY MAY ADVERSELY AFFECT OUR ABILITY TO COMPETE IN THE MARKET.

We currently have two patent applications pending. We plan to file additional patent applications for future products or services, although we may not do so, or they might not be approved. Our success is dependent in part on our ability to obtain and maintain patent protection for our products, maintain trade secret protections and operate without infringing the patent or proprietary rights of others. A successful challenge to our ownership of our technology could materially damage our business prospects. Our patent pending applications may not be granted to us. We may not be able to develop additional products that are patentable. Any patents issued to us may not provide us with any commercial advantage. Any of our products may infringe on the patent rights of others. If any of our products are found to infringe on any other patents, we may not be able to obtain licenses to continue and manufacture and license these products or we may have to pay damages as a result of an infringement. Even if our patent applications are approved, the commercial application of the product may not result in any profits to us.

WE DEPEND ON KEY PERSONNEL AND OUR BUSINESS COULD BE ADVERSELY AFFECTED IF THEY WERE TO DEPART.

Our success depends to a significant degree upon the continued contributions of our key management, marketing, service and related product development and operational personnel. Our business requires a highly skilled management team. The technical nature of our products requires an engineer proficient in the provision of wireless systems and controlling electrical switches. Additionally, we require a person with the understanding of the potential applications for our products to a multitude of industries ranging from the electric utility industry to the information technology industry. Two employees, Eric Berg and Myron Anduri, are particularly valuable to us because they possess specialized knowledge about our company and operations and both have specialized skills for our operations making them very difficult to replace. Doug Saathoff currently serves as both our Chief Executive Officer and the Chief Financial Officer, and has experience in raising capital for small cap companies and providing financial oversight that is vital to our ongoing success. We do not currently have employment agreements with Messrs. Anduri, Berg and Saathoff that prohibit them from competing with us upon termination of their employment. Our business may not be successful if, for any reason, any of these officers ceased to be active in our management.

THE LIMITED PUBLIC MARKET FOR OUR SHARES MAY MAKE IT DIFFICULT TO TRANSFER OUR SHARES.

Although our stock is traded on the over-the-counter bulletin board, there is limited trading in our stock and thus no established market for our securities. Holders of our stock may find it difficult to trade their shares until a time that there is a more established market for our securities.

WE DO NOT ANTICIPATE DECLARING ANY DIVIDENDS IN THE FORESEEABLE FUTURE AND MAY NEVER DO SO.

We anticipate that, following the completion of this offering and for the foreseeable future, earnings, if any, will be retained for the development of our business and will not be distributed to shareholders as cash dividends. The declaration and payment of cash dividends, if any, by us at some future time will depend upon our results of operations, financial condition, cash requirements, future prospects, limitations imposed by credit agreements or senior securities and any other factors deemed relevant by our Board of Directors.

RISKS RELATED TO OUR INDUSTRY

WELL-FUNDED COMPETITORS COULD ENTER THE MARKET WITH SIMILAR PRODUCTS AND, IF WE CAN NOT EFFECTIVELY COMPETE, OUR BUSINESS MAY FAIL.

To our knowledge, we are the only company to develop and market an easy to use "plug and play" intelligent wireless remote control device. While we have extensive knowledge of utilizing a paging network to provide remote control services, we are not the only company with this knowledge. If another company enters the market, we may have to lower our prices to compete which could adversely affect our revenues. We may also have to increase our costs to differentiate our products. Even if we lower our prices or differentiate our products, we may not be able to compete effectively. If we can not compete effectively, our business may fail.

IF THE COSTS OF CELLULAR SERVICE DECREASE, WE MAY HAVE TO ADAPT OUR PRODUCTS FOR CELLULAR TECHNOLOGY WHICH WOULD INCREASE OUR COSTS AND ADVERSELY AFFECT OUR GROSS PROFITS.

While paging is a very low cost telecommunications medium that enjoys extensive geographic coverage both in the United States and abroad, cellular service now has vast geographic reach as well. Moreover, while the costs of using cellular service for remote control currently are significantly higher than paging, cellular costs may eventually come down to an affordable price for remote control. In this case, to remain competitive, we would have to expend resources to adapt our products for cellular technology, or develop or acquire a cellular product of our own.

WE ARE DEPENDENT UPON THIRD-PARTY SUPPLIERS FOR PAGING AND SATELLITE SERVICES AND MAY BE UNABLE TO FIND ALTERNATIVE SUPPLIERS.

We rely on other companies to supply key components of our network infrastructure, including paging carriers and satellite providers, both of which are critical to our ability to provide remote control services to our customers. We have only a few long-term agreements governing the supply of many of paging services and are dependent upon a third party for several of the other paging services that serve our customers. Additionally, we have only one contract with a satellite carrier. If we were unable to continue to obtain these services, at a commercially reasonable cost, it would adversely affect our business, financial condition and results of operations.

IF OUR PRODUCTS FAIL TO GAIN WIDESPREAD MARKET ACCEPTANCE, OUR ABILITY TO GENERATE SUFFICIENT REVENUES OR PROFIT MARGINS WILL BE LIMITED.

There may not be sufficient demand for our products to enable us to become profitable. We do not know whether any of our products will be sold in sufficient numbers to provide enough revenues to cover operating expenses. In addition, if the electric utility industry develops alternative conservation or

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load control devices, it could have an adverse effect on our sales.

RISKS RELATED TO THIS OFFERING

OUR STOCK PRICE IS VOLATILE AND YOU MAY NOT BE ABLE TO SELL YOUR SHARES FOR HIGHER THAN WHAT YOU PAID.

Our common stock is quoted on the "OTC - Bulletin Board Service" under the symbol "NIHK.OB." The market price of our common stock has been and is likely to continue to be highly volatile and subject to wide fluctuations due to various factors, many of which may be beyond our control, including: annual variations in operating results; announcements of technological innovations or new software, services or products by us or our competitors; and changes in financial estimates and recommendations by securities analysts. In addition, there have been large price and volume fluctuations in the stock market, which have affected the market prices of securities of many technology and services companies, often unrelated to the operating performance of these companies. These broad market fluctuations, as well as general economic and political conditions, may adversely affect the market price of our common stock. In the past, volatility in the market price of a company's securities has often led to securities class action litigation. This litigation could result in substantial costs and diversion of our attention and resources, which could have a material adverse effect on our business, financial condition and operating results.

EXISTING STOCKHOLDERS MAY EXPERIENCE SIGNIFICANT DILUTION FROM THE SALE OF SECURITIES PURSUANT TO OUR INVESTMENT AGREEMENT WITH DUTCHESS.

8

The sale of shares pursuant to our Investment Agreement with Dutchess may have a dilutive impact on our stockholders. As a result, our net income per share could decrease in future periods and the market price of our common stock could decline. In addition, the lower our stock price is at the time we exercise our put option, the more shares we will have to issue to Dutchess to draw down on the full equity line with Dutchess. If our stock price decreases, then our existing stockholders would experience greater dilution. At a stock price of \$0.12 or less, we would have to issue all 40,000,000 shares registered under this offering in order to draw down on the full equity line.

DUTCHESS WILL PAY LESS THAN THE THEN-PREVAILING MARKET PRICE OF OUR COMMON STOCK WHICH COULD CAUSE THE PRICE OF OUR COMMON STOCK TO DECLINE.

Our common stock to be issued under our agreement with Dutchess will be purchased at a 5% discount to the lowest closing best bid price during the five days immediately following our notice to Dutchess of our election to exercise our put right. Dutchess has a financial incentive to sell our common stock immediately upon receiving the shares to realize the profit between the discounted price and the market price. If Dutchess sells our shares, the price of our stock could decrease. If our stock price decreases, Dutchess may have a further incentive to sell the shares of our common stock that it holds. The discounted sales under our agreement with Dutchess could cause the price of our common stock to decline.

WE WILL NEED TO RAISE ADDITIONAL FUNDING AND IF WE ISSUE SUBSTANTIAL AMOUNTS OF COMMON STOCK, CURRENT STOCKHOLDERS MAY EXPERIENCE DILUTION AND OUR STOCK PRICE MAY DECREASE.

We will need to raise additional funding to implement our business plan. As a result, we may issue substantial amounts of common or preferred stock. Sales of substantial amounts of common stock could have a material dilutive effect on

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shareholders. Additionally, it may be necessary to offer warrants or other securities to obtain strategic relationships or to raise additional capital. All of these issuances will dilute the holdings of existing shareholders thereby reducing the holder's percentage ownership and possibly lowering the price of our common stock.

WE MUST COMPLY WITH PENNY STOCK REGULATIONS THAT COULD EFFECT THE LIQUIDITY AND PRICE OF OUR STOCK.

The SEC has adopted rules that regulate broker-dealer practices in connection with transactions in "penny stocks." Penny stocks generally are equity securities with a price of less than \$5.00, other than securities registered on certain national securities exchanges or quoted on NASDAQ, provided that current price and volume information with respect to transactions in these securities is provided by the exchange or system. Prior to a transaction in a penny stock, a broker-dealer is required to:

- deliver a standardized risk disclosure document prepared by the SEC;
- provide the customer with current bid and offer quotations for the penny stock;
- explain the compensation of the broker-dealer and its salesperson in the transaction;
- provide monthly account statements showing the market value of each penny stock held in the customer's account;
- make a special written determination that the penny stock is a suitable investment for the purchaser and receive the purchaser's executed acknowledgement of the same; and
- provide a written agreement to the transaction.

These requirements may have the effect of reducing the level of trading activity in the secondary market for our stock. Because our shares are subject to the penny stock rules, you may find it more difficult to sell your shares.

USE OF PROCEEDS

Up to 2,614,500 shares of common stock covered by this prospectus will be sold by selling shareholders, who will receive the shares pursuant to the conversion of Special Warrants and the exercise of the underlying common stock purchase warrants. The selling shareholders will receive all of the proceeds from such sales. We received \$232,400 from the sale of 1,162,000 Special Warrants, and paid \$43,625 in related expenses. First Associates received a warrant to

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purchase 145,250 Special Warrants in return for sponsoring the placement of the Special Warrants. We will receive the proceeds from the exercise price of the warrant by First Associates and from the exercise of any of the common stock purchase warrants, if they are exercised. The warrants can be exercised for \$0.30 per share of common stock and expire two years from their date of issuance. If First Associates converts their warrant, and all of the common stock purchase warrants are exercised, we will receive \$421,225 in gross cash proceeds. We do not know if we will receive any proceeds from the warrant issued to First Associates in the near future, nor do we expect to receive proceeds from the exercise of the common stock purchase warrants at \$0.30 in the near future because, as of November 18, 2004, the closing price of our stock was \$0.125.

Up to 8,000,000 shares of common stock covered by this prospectus will be sold by Dutchess, who will receive all of the proceeds from such sales. We received \$250,000 in proceeds from the sale of convertible debentures.

Up to 250,000 shares of common stock covered by this prospectus will be sold by Dutchess, who will receive the shares pursuant to the exercise of warrants issued by us along with the convertible debentures. Dutchess will receive all of the proceeds from such sales. We will receive the proceeds from the exercise of the warrants. The warrants can be exercised for \$0.125 per share of common stock and expire on August 10, 2009. If all of the warrants are exercised, we will receive \$31,250 in proceeds.

Up to 40,000,000 shares of common stock covered by this prospectus will be sold by Dutchess, who will receive all of the proceeds from such sales. However, we could receive up to \$10,000,000 in proceeds from the sale of our common shares pursuant to our Investment Agreement with Dutchess.

For illustrative purposes, we have set forth below our intended use of proceeds for the range of net proceeds received or expected to be received subsequent to June 30, 2004. The gross proceeds shown below consist of \$31,250 from the Dutchess warrants, and a range of proceeds from the Investment Agreement. The gross proceeds shown below do not include proceeds from the issuance of any additional Special Warrants at \$0.20 or from the exercise of the common stock warrants underlying the Special Warrants at \$0.30, because those prices are well above our recent closing stock prices. Estimated expenses of the Offering include a 5% commission on the proceeds from the Debenture Agreement and the Investment Agreement.

	Priority	Proceed if 100% of Investment Agreement Sold	Proceeds if 50% of Investment Agreement Sold	Proceeds if of Investmen Agreement Sold
Gross Proceeds		\$10,031,250	\$5,031,250	\$2,531,250
Estimated expenses of the Offering		525,000	275,000	150,000
Net proceeds		----- \$9,506,250 =====	----- \$4,756,250 =====	----- \$2,381,250 =====

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Working capital and general				
corporate expenses	1st	\$3,000,000	\$2,500,000	\$2,000,000
Expansion of internal operations	2nd	\$2,000,000	\$1,000,000	\$381,250
Potential acquisition costs(1)	3rd	\$4,506,250	\$1,256,250	
		-----	-----	-----
		\$9,506,250	\$4,756,250	\$2,381,250
		=====	=====	=====

(1) From time to time we evaluate opportunities to make acquisitions of assets or businesses to achieve our goal of profitability, but we are not currently planning any material acquisitions.

10

Proceeds of the offering which are not immediately required for the purposes described above will be invested in United States government securities, short-term certificates of deposit, money market funds and other high-grade, short-term interest-bearing investments.

DETERMINATION OF OFFERING PRICE

The selling stockholders may sell shares in any manner at the current market price or through negotiated transactions with any person at any price.

DILUTION

Our net tangible book value as of June 30, 2004 was (\$1,001,870), or (\$0.04) per share of common stock. Net tangible book value per share is determined by dividing our tangible book value (total tangible assets less total liabilities) by the number of outstanding shares of our common stock. Net tangible book value as of June 30, 2004 is calculated by subtracting our net intangible asset of \$8,658 from net total book value (total assets less total liabilities) of (\$993,212). Since this offering is being made solely by the selling stockholders and none of the proceeds will be paid to us, our net tangible book value will be unaffected by this offering. Our net tangible book value, however, will be impacted by the common stock to be issued to Dutchess Private Equities Fund II under the Debenture Agreement and Investment Agreement, and to any additional purchasers of Special Warrants and their underlying common stock purchase warrants. The amount of dilution resulting from share issuances to Dutchess will be determined by our stock price at or near the time of the conversion of the debentures by Dutchess or the put of shares to Dutchess by us. The amount of dilution resulting from share issuances to purchasers of Special Warrants will depend on how many additional Special Warrants are sold by us and how many of the underlying common stock purchase warrants are exercised. The following example shows the dilution to new investors assuming i) no additional sales of Special Warrants and no exercises of the underlying common stock purchase warrants; ii) The conversion of all \$250,000 convertible debentures at \$0.09 which is based on our closing bid price of \$0.12 on October 29, 2004; iii) the exercise of 250,000 warrants at \$0.125 issued with the convertible debentures, and iv) the issuance of 100%, 50%, 25% and 10% of the 40,000,000 shares of common stock to Dutchess Private Equities Fund at an assumed offering price of \$0.13 per share which is based on the closing price of our common stock on October 29, 2004 of \$0.14 adjusted for the 5% discount at which we will issue shares under our agreement with Dutchess Private Equities Fund. The discount is defined as 95% of the lowest closing bid price of our common stock during the five consecutive trading day period immediately following our notice to Dutchess Private Equities Fund of our election to exercise our put rights.

Using the above assumptions, less \$25,000 of offering expenses and 5% cash

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commission , our pro forma net tangible book value as of June 30, 2004 would have been as follows:

Pro Forma Effects of Dilution from Offering:

	100%	50%	25%
Assumed percentage of shares issued	100%	50%	25%
Number of shares issued (in millions)	40	20	10
Assumed public offering price per share	\$0.13	\$0.13	\$0.13
Stock discount recognized as interest expense	\$363,333	\$223,333	\$153,333
Net tangible book value per share before this offering	(\$0.04)	(\$0.04)	(\$0.04)
Net tangible book value after this offering	\$3,932,547	\$1,545,548	\$352,049
Net tangible book value per share after this offering	\$0.06	\$0.03	\$0.01
Dilution of net tangible book value per share to new investors	\$0.12	\$0.11	\$0.11
Increase in net tangible book value per share to existing shareholders	\$0.10	\$0.07	\$0.05

You should be aware that there is an inverse relationship between our stock price and the number of shares to be issued under the Debenture Agreement and the Investment Agreement to Dutchess. That is, as our stock price declines, we would be required to issue a greater number of shares under the Debenture Agreement for a conversion and under the Investment Agreement for a given advance. This inverse relationship is demonstrated by the table below, which shows the number of shares to be issued under the Debenture Agreement at a price of \$0.09 per share and the Investment Agreement at a price of \$0.13 per share, and 25%, 50% and 75% discounts to those prices.

11

% discount	0%	25%	50%	75%
Offering price(1)	\$0.13	\$0.10	\$0.07	\$0.03
Conversion price(2)	\$0.09	\$0.07	\$0.05	\$0.02
No of shares(3)	10,769,231	14,358,974	21,538,462	43,076,923
No of shares(4)	2,777,778	3,703,704	5,555,556	11,111,111
Total outstanding(5)	40,080,697	44,596,366	53,627,705	80,721,722
% outstanding(6)	34%	41%	51%	67%

(1) Represents sales price under Investment Agreement.

(2) Represents conversion price under Debenture Agreement.

(3) Represents the number of shares of common stock to be issued at the prices set forth in the table to generate \$1.4 million in gross proceeds under the

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Investment Agreement.

(4) Represents the number of shares of common stock to be issued at the prices set forth in the table upon conversion of \$250,000 in convertible debentures.

(5) Represents the total number of shares of common stock outstanding after the issuance of the shares from (3) and (4) above, assuming no issuance of any other shares of common stock.

(6) Represents the shares of common stock to be issued as a percentage of the total number shares of common stock outstanding (assuming no exercise or conversion of any options, warrants or other convertible securities).

SELLING SECURITY HOLDERS

Based upon information available to us as of November 18, 2004, the following table sets forth the names of the selling stockholders, the number of shares owned, the number of shares registered by this prospectus and the number and percent of outstanding shares that the selling stockholders will own after the sale of the registered shares, assuming all of the shares are sold. The information provided in the table and discussions below has been obtained from the selling stockholders. The selling stockholders may have sold, transferred or otherwise disposed of, or may sell, transfer or otherwise dispose of, at any time or from time to time since the date on which they provided the information regarding the shares beneficially owned, all or a portion of the shares of common stock beneficially owned in transactions exempt from the registration requirements of the Securities Act of 1933. As used in this prospectus, "selling stockholder" includes donees, pledgees, transferees or other successors-in-interest selling shares received from the named selling stockholders as a gift, pledge, distribution or other non-sale related transfer. Beneficial ownership is determined in accordance with Rule 13d-3(d) promulgated by the Commission under the Securities Exchange Act of 1934. Unless otherwise noted, each person or group identified possesses sole voting and investment power with respect to the shares, subject to community property laws where applicable.

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12

	Ownership Before Offering	Shares Being Offered	Shares after th
	-----	-----	-----
Dutchess Private Equities Fund II, LP (3) 312 Stuart St., Third Floor Boston, MA 02116	0	48,250,000	
U.S. Euro Securities 330 Washington Blvd,, Ste 706 Marina del Rey, CA 90292 (5)	2,100,000	2,000,000	
Christopher Vorberg 7671 Abercrombie Drive, Richmond, British Columbia, Canada	1,420,000	1,100,000 (4)	
Rod Saville 7987 Wentworth Drive SW, Calgary, Alberta, Canada	600,000	600,000 (4)	
Douglas Hunter 1420 Joliet, Ave., SW, Calgary, Alberta, Canada	544,000	500,000 (4)	
Fraser Hindson 5099 Topaz Place, Richmond, British Columbia, Canada	179,000	124,000 (4)	
First Associates Suite 500, Bentall Five, 550 Burrard St. Vancouver, BC V6C 2B5 (6)	0	290,500 (4)	

* Less than 1%

- (1)The numbers assume that the selling stockholder have sold all of the shares offered hereby prior to completion of this offering.
- (2)Based on 30,622,518 shares outstanding as of November 18, 2004.
- (3)Michael Novielli and Douglas Leighton are the Managing Members of Dutchess Capital Management, LLC, which is the General Partner of Dutchess Private Equities Fund II, LP.
- (4)Shares that may be acquired pursuant to our Special Warrant offering. Our Special Warrant offering resulted in the issuance of 1,162,000 Special Warrants to accredited investors, and an option to First Associates Allowing them to purchase an additional 12.5 percent, or 145,250, of the Total number of Special Warrants sold. Each Special Warrant is convertible into one share of our common stock and one common stock purchase warrant to purchase a share of our common stock for \$0.30 per share. The number of shares reflects the underlying shares for both the Special Warrant and the purchase warrant.
- (5)The principals of U.S. Euro Securities are Michael R. Fugler, Chairman, and

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Ray Dowd, President.

(6)The principals of First Associates are William Packham, Chairman and Chief Executive Officer, and Stuart R. Raftus, President and Chief Operating Officer.

PLAN OF DISTRIBUTION

The selling stockholders will act independently of us in making decisions with respect to the timing, manner and size of each sale. The selling stockholders may sell the shares from time to time:

- in transactions on the Over-the-Counter Bulletin Board or on any national securities exchange or U.S. inter-dealer system of a registered national securities association on which our common stock may be listed or quoted at the time of sale; or
- in private transactions and transactions otherwise than on these exchanges or systems or in the over-the-counter market;
- at prices related to prevailing market prices, or
- in negotiated transactions, or
- in a combination of these methods of sale; or
- any other method permitted by law.

13

The selling stockholders may be deemed underwriters. The selling stockholders may effect these transactions by offering and selling the shares directly to or through securities broker-dealers, and these broker-dealers may receive compensation in the form of discounts, concessions or commissions from the selling stockholders and/or the purchasers of the shares for whom these broker-dealers may act as agent or to whom the selling stockholders may sell as principal, or both, which compensation as to a particular broker-dealer might be in excess of customary commissions.

Dutchess Private Equities Fund, II, First Associates and U.S. Euro Securities and any broker-dealers who act in connection with the sale of our shares will be deemed to be "underwriters" within the meaning of the Securities Act, and any discounts, concessions or commissions received by them and profit on any resale of the shares as principal will be deemed to be underwriting discounts, concessions and commissions under the Securities Act.

On or prior to the effectiveness of the registration statement to which this prospectus is a part, we will advise the selling stockholders that they and any securities broker-dealers or others who may be deemed to be statutory underwriters will be governed by the prospectus delivery requirements under the Securities Act. Under applicable rules and regulations under the Securities Exchange Act, any person engaged in a distribution of any of the shares may not simultaneously engage in market activities with respect to the common stock for the applicable period under Regulation M prior to the commencement of this distribution. In addition and without limiting the foregoing, the selling security owners will be governed by the applicable provisions of the Securities and Exchange Act, and the rules and regulations thereunder, including without limitation Rules 10b-5 and Regulation M, which provisions may limit the timing of purchases and sales of any of the shares by the selling stockholders. All of the foregoing may affect the marketability of our securities.

On or prior to the effectiveness of the registration statement to which this

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prospectus is a part, we will advise the selling stockholders that the anti-manipulation rules under the Securities Exchange Act may apply to sales of shares in the market and to the activities of the selling security owners and any of their affiliates. We have informed the selling stockholders that they may not:

- engage in any stabilization activity in connection with any of the shares;
- bid for or purchase any of the shares or any rights to acquire the shares,
- attempt to induce any person to purchase any of the shares or rights to acquire the shares other than as permitted under the Securities Exchange Act; or
- effect any sale or distribution of the shares until after the prospectus shall have been appropriately amended or supplemented, if required, to describe the terms of the sale or distribution.

We have informed the selling stockholders that they must affect all sales of shares in broker's transactions, through broker-dealers acting as agents, in transactions directly with market makers, or in privately negotiated transactions where no broker or other third party, other than the purchaser, is involved.

The selling stockholders may indemnify any broker-dealer that participates in transactions involving the sale of the shares against certain liabilities, including liabilities arising under the Securities Act. Any commissions paid or any discounts or concessions allowed to any broker-dealers, and any profits received on the resale of shares, may be deemed to be underwriting discounts and commissions under the Securities Act if the broker-dealers purchase shares as principal.

In the absence of the registration statement to which this prospectus is a part, certain of the selling stockholders would be able to sell their shares only pursuant to the limitations of Rule 144 promulgated under the Securities Act.

We engaged U.S. Euro Securities as our placement agent with respect to the securities to be issued under the Equity Line of Credit. To our knowledge U.S. Euro Securities has no affiliation or business relationship with Dutchess Private Equities Fund II. U.S. Euro Securities is our exclusive placement agent in connection with the Investment Agreement. We agreed to pay U.S. Euro Securities 5% of the Put Amount on each draw. The Placement Agent agreement terminates when our Investment Agreement with Dutchess Private Equities Fund II terminates pursuant to the terms of that Investment Agreement.

We engaged First Associates as the underwriter with respect to the Special Warrants. To our knowledge, First Associates has no affiliation with Dutchess Private Equities Fund, II. First Associates received a cash commission of 8%, or \$18,592, of the gross proceeds from the sale of the Special Warrants and 12.5% of the amount of Special Warrants sold for a total number of Special Warrants for First Associates of 145,250.

LEGAL PROCEEDINGS

Charles McCarthy vs. Nighthawk Systems, Inc., Case no CV03-5406, Second Judicial District Court, County of Washoe, State of Nevada. In May 2003, we were sued by a former Board member seeking recovery for the value of 350,000 shares, or \$209,500, and \$120,000 due his firm under a retainer agreement between Peregrine Control Technologies, Inc. and his firm. The former Board member had previously

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signed a settlement agreement with us in which he agreed to cancel all potential claims against us and our directors in return for 150,000 unregistered shares trading at a value of \$0.60 or higher. In October 2004 we reached an agreement with Mr. McCarthy to settle the case. Under the Settlement Agreement and Release, we will pay McCarthy \$55,000 in three payments over the course of one year from the date of the settlement.

Lawrence Brady and Mark Brady vs. Peregrine Control Technologies, Inc., et al., District Court, City & County of Denver, Colorado. In April 2004, we, along with the current officers and board members and several of our former directors, were sued by a former director and his son for, among other things, breach of contract for unlawful termination and failure to provide stock. The alleged breaches and other claims all stem from their service as our director and chief financial officer, respectively, for part of 2001 and part of 2002. The aggregate amount of damages claimed is not specified. We filed a counterclaim against the Bradys for non-performance and breach of fiduciary duties. This counterclaim was allowed to proceed by the court over the objection of the Bradys.

DIRECTORS, EXECUTIVE OFFICERS, SIGNIFICANT EMPLOYEES AND CONTROL PERSONS

The following table sets forth the name, age, positions, and offices or employments for the past five years as of November 18, 2004, of our executive officers and directors. Members of the board are elected and serve for one year terms or until their successors are elected and qualify. All of the officers are appointed by the Board.

NAME	AGE	POSITION
H. Douglas Saathoff	42	Chief Executive Officer and Chief Financial Officer
Max Polinsky	46	Director and Chairman of the Board
Patrick A. Gorman	39	Director
Myron Anduri	48	President
Eric Berg	49	Vice President-Engineering

Mr. Saathoff, CPA, joined us as our full-time Chief Financial Officer on January 1, 2003 after serving in that capacity on a part-time consulting basis beginning in October 2002. On March 26, 2003, he was promoted to the position of Chief Executive Officer. Prior to joining us, he served as Chief Financial Officer for ATSI Communications, Inc., from June 1994 through July 2002 and as a Board Member of ATSI's publicly traded subsidiary, GlobalSCAPE, Inc. from April 1997 through June 2002. During his tenure at ATSI, he was directly responsible for establishing and monitoring all accounting, financial, internal reporting and external reporting functions, and had primary responsibility for fundraising efforts. ATSI raised over \$60 million in debt and equity financing from both individuals and institutions during Doug's tenure, and moved from the Canadian Over The Counter market to the U.S. Over The Counter market and eventually to a listing on the American Stock Exchange in February 2000. ATSI grew from San Antonio-based start-up with 11 employees to an international operation with in excess of 500 employees and operations in the U.S., Mexico, Costa Rica, Guatemala and El Salvador with annual revenues in excess of \$60 million. He was instrumental in the acquisition of subsidiaries and customer bases, as well as the divestiture of GlobalSCAPE in June 2002. Prior to joining ATSI, Doug served as the Accounting Manager, Controller and Financial Reporting Manager for U.S. Long Distance Corp. from 1990 to 1993. While at U.S. Long Distance Corp. he was responsible for supervising all daily accounting functions, developing internal and external financial reporting of budgeted and actual information, and for preparing financial statements for shareholders, lending institutions and the

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Securities and Exchange Commission. Doug also served as Senior Staff Accountant for Arthur Andersen & Co. where he planned, supervised and implemented audits for clients in a variety of industries, including telecommunications, oil & gas and financial services. Doug graduated from Texas A&M University with a Bachelor of Business Administration degree in Accounting.

15

Mr. Polinsky was elected a member of the Board in April 2002. He is a director and principal of Venbanc, Inc., an investment and merchant bank located in Winnipeg, Manitoba Canada that he founded with a partner in 1994. Venbanc specializes in the structuring and financing of start-up companies and provides follow-up financial and management advisory assistance. It has successfully funded and taken public several companies in Canada and the United States in the past ten years. Prior to this, Mr. Polinsky was the general manager of City Machinery Ltd., a nationwide power transmission parts distributor with offices across Canada. He began his career as a stockbroker at Canarim Investment Corp., now Canaccord Capital, in 1982. Mr. Polinsky graduated with honors from the University of Manitoba with a degree in Business Administration, Finance Major, and has the financial expertise required for the audit committee.

Mr. Gorman was elected a member of the Board in April 2002. He is the managing director of Gorman and Associates, Inc., a strategic consulting firm for corporate and government affairs. Mr. Gorman's focus at Gorman and Associates includes law and the legislative process, communications, government relations, and operations. Over the last 10 years, he has advised corporations, non-government organizations, non-profits, and individuals on issues pertaining to criminal law, the environment, telecommunications, international trade, fund raising, community development, media relations, and alternative dispute resolution. Mr. Gorman is a member of the Advisory Board of New Media Strategies, Inc., an Internet service provider focused on public relations, communications, and viral marketing. Mr. Gorman is also a Board member of the Echo Hill Campership Fund, a local non-profit whose mission is to send the neediest, very low-income, inner-city youths to camp on the Chesapeake Bay. Mr. Gorman is admitted to practice law in Maryland and the District of Columbia.

Mr. Anduri joined us in January 2000 and was promoted to President in December 2003 from his previous position as Vice President of Sales. From 1999 to 2000 he was Vice President-New Business Development for Kyocera Solar Inc. of Scottsdale, Arizona. While with Kyocera, he worked to develop new market areas for the company's solar power products. From 1997 to 1999 he served as Vice President- Telecommunications Division, a \$21 million international unit, where he managed all sales and engineering efforts. From 1993-1997 Mr. Anduri was Senior Vice President-Marketing and Sales for Photocomm Inc. a Nasdaq-traded company based in Scottsdale Arizona, which was ultimately acquired by Kyocera in 1997. He also served as Vice President-Industrial Division of Photocomm from 1989-1993 and was the Rocky Mountain Regional Manager from 1987-89. Mr. Anduri holds a B.A. in Economics from Colorado State University.

Mr. Berg joined us in 1999 as our Vice President - Engineering. Mr. Berg spent

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more than 25 years in the engineering field specializing in design and development. From 1987 to 1998 he held numerous project engineering positions at SCI Systems, the third largest contract manufacturer of printed circuit boards in the world. His responsibilities focused on design and management for projects relating to hand-held satellite receivers, computers, and military avionics. From 1979 to 1987 Mr. Berg was employed by Aydis Corporation as a design and development engineer, designing computer interfaces for various minicomputer platforms, integration engineering for new products and hardware and software for in-house test equipment used in pulse code modulation telemetry equipment for the U.S. Space Shuttle program. Mr. Berg received a B.S. in Electrical Engineering from the University of Maine, and completed graduate level coursework in both Electrical Engineering and Technical Management.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth certain information concerning the beneficial ownership of our outstanding classes of stock as of November 18, 2004, by each person known by us to (i) own beneficially more than 5% of each class, (ii) by each of our Directors and Executive Officers and (iii) by all Directors and Executive Officers as a group. Unless otherwise indicated below, to our knowledge, all persons listed below have sole voting and investment power with respect to their shares of common stock except to the extent that authority is shared by spouses under applicable law.

The number of shares of common stock issued and outstanding on November 18, 2004 was 30,622,518 shares. The calculation of percentage ownership for each listed beneficial owner is based upon the number of shares of common stock issued and outstanding on November 18, 2004, plus shares of common stock subject to options held by each person on November 18, 2004 and exercisable within 60 days thereafter. The address for officers and directors is: c/o Nighthawk Systems, Inc., 10715 Gulfdale, Suite 200, San Antonio, TX 78216.

16

NAME AND ADDRESS OF BENEFICIAL OWNER	AMOUNT AND NATURE OF BENEFICIAL OWNER	PERCENT OF CLASS
Steven Jacobson 6600 E Hampden Ave 3rd Floor Denver, CO 80224	3,775,654 (a), (b)	12.3%
Max Polinsky	525,000 (c)	1.7%
Patrick Gorman	175,000 (d)	1.0%

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Eric Berg	66,667	(f)	1.0%
H. Douglas Saathoff	564,996	(e)	1.8%
Herbert I. Jacobson 1011 S. Valentia St., #87 Denver, CO 80247	2,721,800	(g)	8.9%
Myron Anduri	3,608,486	(h)	11.6%
Tomas Revesz P.O. Box 2498 McAllen, TX 78502	3,996,894	(i)	11.7%
Directors and officers as a group	6,017,049		19.1%