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AIRTRAX INC
Form 424B3
November 04, 2004

PROSPECTUS

Filed Pursuant to Rule 424(b)(3)
Registration No. 333-116475

Airtrax, Inc.

6,760,188 Shares of Common Stock

This prospectus relates to the resale by the selling stockholder of 6,760,188 shares of our common stock, including 3,160,063 shares are issuable upon the exercise of warrants. The selling stockholder may sell common stock from time to time in the principal market on which the stock is traded at the prevailing market price or in negotiated transactions.

We will pay the expenses of registering these shares. We will not receive any proceeds from the sale of shares of common stock in this offering. All of the net proceeds from the sale of our common stock will go to the selling stockholders.

Our common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 and is listed on the Over-The-Counter Bulletin Board under the symbol "AITX." The last reported sales price per share of our common stock as reported by the Over-The-Counter Bulletin Board on June 11, 2004 was \$1.03.

Investing in these securities involves significant risks. Investors should not buy these securities unless they can afford to lose their entire investment.

SEE "RISK FACTORS" BEGINNING ON PAGE 5.

The Securities and Exchange Commission and state securities regulators have not approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is August 13, 2004.

The information in this prospectus is not complete and may be changed. This prospectus is included in the registration statement that was filed by Airtrax, Inc., with the Securities and Exchange Commission. The Selling Stockholder may not sell these securities until the registration statement becomes effective. This prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

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WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports and other information with the Securities and Exchange Commission. You may read and copy any of these documents at the SEC's public reference rooms in Washington, D.C.. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. Our SEC filings are also available to the public at the SEC' s website at www.sec.gov.

The SEC allows us to "incorporate by reference" the information we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be an important part of this prospectus. Any information that we incorporate by reference is automatically updated and superseded if information contained in this prospectus modifies or replaces that information. You must look at all of our SEC filings that we have incorporated by reference to determine if any of the statements in a document incorporated by reference have been modified or superseded.

We incorporate by reference the document listed below:

- o Our quarterly report on Form 10-QSB for the period ending March 31, 2004;
- o Our annual report on Form 10-KSB for the year ended December 31, 2003; and
- o Our current reports on Form 8-K for the past fiscal year.

A copy of our above-mentioned reports are being delivered with this prospectus. You may request additional copies of these filings at no cost, by writing or telephoning us at the following address or phone number:

Airtrax, Inc.
870B Central Avenue
Hammonton, NJ 08037
Attention: President
(609) 567-7800

You should rely only on the information contained in this prospectus or to which we have referred you. We have not authorized anyone to provide you with information that is different. This prospectus may only be used where it is legal to sell these securities. The information in this prospectus may only be accurate on the date of this prospectus.

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This prospectus, any prospectus supplement and the documents incorporated by reference in this prospectus contain forward-looking statements. We have based these forward-looking statements on our current expectations and projections about future events.

In some cases, you can identify forward-looking statements by words such as "may," "should," "expect," "plan," "could," "anticipate," "intend," "believe," "estimate," "predict," "potential," "goal," or "continue" or similar terminology. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including the risks outlined under "Risk Factors," that may cause our or our industry's actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by such forward-looking statements.

Unless we are required to do so under U.S. federal securities laws or other applicable laws, we do not intend to update or revise any forward-looking statements.

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PROSPECTUS SUMMARY

Since 1995, substantially all of our resources and operations have directed towards the development of the omni-directional wheel and related components for forklift and other material handling applications. Many of the components, including the unique shaped wheels, motors, and frames, have been specially designed by us and specially manufactured. Four pilot models of the commercial omni-directional lift truck are currently operational.

We have commenced and are near completion of getting the parts together for our initial production run consisting of 10 units of our Sidewinder ATX-3000 Omni-Directional Lift Truck. Substantially all of the parts including frames, motors, controllers, and micro-processors have been ordered and received by us, and are partially assembled. The initial production run will be completed upon receipt of wheels and other components from suppliers which is expected in the third quarter of 2004. Unit assembly is undertaken by Crane and Machinery, Inc., (Schaeff Forklift) Bridgeview, Illinois under our specifications. UL and final ANSI testing is expected to be completed from 30 to 90 days from production completion. Following required testing, we expect to sell these units to select dealers in the United States. We have received orders for our initial run production run of 10 units.

We have incurred losses and experienced negative operating cash flow since our formation. For our fiscal years ended December 31, 2003 and 2002, we had a net loss of \$(2,363,695) and \$(640,616), respectively. We expect to continue to incur significant expenses. Our operating expenses have been and are expected to continue to outpace revenues and result in significant losses in the near term. We may never be able to reduce these losses, which will require us to seek additional debt or equity financing.

Our principal executive offices are located at 870B Central Avenue, Hammonton, NJ 08037 and our telephone number is (609) 567-7800. We are incorporated in the State of New Jersey.

The Offering

Common stock offered by selling stockholder Up to 6,760,188
shares and assuming
the full exercise of
the warrants.

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Common stock to be outstanding after the offering..... Up to 15,636,740
shares

Use of proceeds..... We will not receive
any proceeds from
the sale of the
common stock.

Over-The-Counter Bulletin Board Symbol..... AITX

The above information regarding common stock to be outstanding after the offering is based on 8,876,552 shares of common stock outstanding as of June 7, 2004.

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RECENT DEVELOPMENTS

May 2004 Private Placement

Airtrax, Inc. ("AITX") and several accredited investors (collectively, the "Investors") entered into a Subscription Agreement whereby the Investors agreed to purchase an aggregate of 3,600,125 shares of common stock at a price of \$0.80 per share for an aggregate purchase price of \$2,855,100. In addition, the Investors received warrants, exercisable at \$1.25 per share, to purchase 50% of the shares issued.

In connection with Subscription Agreement, AITX and the Investors also entered into a Registration Rights Agreement. AITX is obligated to file a registration statement covering the above-referenced common stock and shares underlying the warrants within 30 days of closing. If the Registration Statement is not filed within the 30 day period, or declared effective within 105 days of the closing, AITX will pay a penalty of 1% of the offering proceeds for the first month and 2% of such amount per month thereafter in penalties until such default is cured, on a pro-rated daily basis.

The issuance of the shares and the warrants was exempt from registration requirements of the Securities Act of 1933 pursuant to Section 4(2) of such Securities Act and Regulation D promulgated thereunder based upon the representations of each of the Investors that it was an "accredited investor" (as defined under Rule 501 of Regulation D) and that it was purchasing such securities without a present view toward a distribution of the securities. In addition, there was no general advertisement conducted in connection with the sale of the securities.

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RISK FACTORS

If you purchase shares of our common stock, you will take on a financial risk. In deciding whether to invest, you should consider carefully the following factors, the information contained in this prospectus and the other information to which we have referred you. If any of the following risks actually occur, our business, financial condition or results of operations could be materially adversely affected. In such case, the trading price of our common stock could decline, and you may lose all or part of your investment.

RISKS RELATED TO OUR FINANCIAL CONDITION AND BUSINESS

WE MAY NEVER BECOME PROFITABLE AND CONTINUE AS A GOING CONCERN BECAUSE WE HAVE

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HAD LOSSES SINCE OUR INCEPTION.

We may never become profitable and continue as a going concern because we have incurred losses and experienced negative operating cash flow since our formation. For our fiscal years ended December 31, 2003 and 2002, we had a net loss of \$(2,363,695) and \$(640,616), respectively. We expect to continue to incur significant expenses. Our operating expenses have been and are expected to continue to outpace revenues and result in significant losses in the near term. We may never be able to reduce these losses, which will require us to seek additional debt or equity financing. If such financing is available you may experience significant additional dilution.

OUR BUSINESS OPERATIONS WILL BE HARMED IF WE ARE UNABLE TO OBTAIN ADDITIONAL FUNDING.

Our business operations will be harmed if we are unable to obtain additional funding. We believe that our available short-term assets and investment income will be sufficient to meet our operating expenses and capital expenditures through the end of fiscal year 2004. We do not know if additional financing will be available when needed, or if it is available, if it will be available on acceptable terms. Insufficient funds may prevent us from implementing our business strategy or may require us to delay, scale back or eliminate certain opportunities for the provision of our technology and products. In addition to our own need of working capital, we also will need working capital to fund the operations of Filco GmbH. Filco has informed us that its working capital needs are approximately \$5,000,000 until it can achieve profitable operations, which includes approximately \$1,300,000 required under the Filco agreement. During the first five months of 2004, we have loaned \$900,000 to Filco. If we are unable to complete the terms of the Filco agreement and loan Filco the remaining amounts due thereunder, Filco may be unable to continue its operations and the repayment of amounts loaned to Filco by us may be jeopardized.

FINAL TESTING OF OUR PRODUCT COULD RESULT IN COMPONENT REFINEMENT OR REDESIGN, WHICH COULD DELAY THE COMMERCIAL INTRODUCTION OR CONTINUED SALE OF THE FORKLIFT.

We have developed pilot versions of our unique, omni-directional forklift. The commercial introduction of the product is subject, however, to additional testing and component refinement. Due to the unique performance attributes of the forklift, the forklift will undergo a series of unprecedented tests relating to these attributes. Although management has performed substantially all of these tests or is otherwise confident of the performance capabilities of the forklift, final testing has not been completed. In addition, our product must be sufficiently durable to withstand the day-to-day rigors of its anticipated work environment. As stated above, although we have conducted numerous tests, the product has not been subjected to the normal day-to-day usage typically required of forklifts. Therefore, it is conceivable that final testing, or durability issues after prolonged use, could result in component refinement or redesign, which could delay the commercial introduction or continued sale of the forklift.

THE PRICING POLICY FOR OUR FORKLIFTS MAY BE SUBJECT TO CHANGE, AND ACTUAL SALES OR OPERATING MARGINS MAY BE LESS THAN PROJECTED.

We are assessing present and projected component pricing in order to establish a pricing policy for the SIDEWINDER Lift Truck. We have not finalized our assessment as current prices for certain forklift components reflect special development charges which are expected to be reduced as order volume for such components increase and as manufacturing efficiencies improve. We intend to price our forklifts so as to maximize sales yet provide sufficient operating margins. Given the uniqueness of our product, we have not yet established final pricing sensitivity in the market. Consequently, the pricing policy for its forklifts may be subject to change, and actual sales or operating margins may be less than projected.

WE HAVE RECEIVED LIMITED INDICATIONS OF THE COMMERCIAL ACCEPTABILITY OF OUR OMNI-DIRECTIONAL FORKLIFT. ACCORDINGLY, WE CAN NOT PREDICT WHETHER OUR OMNI-DIRECTIONAL PRODUCTS CAN BE MARKETED AND SOLD IN A COMMERCIAL MANNER.

Our success will be dependent upon our ability to sell omni-directional products in quantities sufficient to yield profitable results. To date, we have received limited indications of the commercial acceptability of our omni-directional forklift. Accordingly, we can not predict whether the omni-directional product can be marketed and sold in a commercial manner.

RISKS RELATING TO OUR COMMON STOCK

THE MARKET PRICE OF OUR COMMON STOCK MAY DECLINE BECAUSE THERE ARE WARRANTS THAT MAY BE AVAILABLE FOR FUTURE SALE AND THE SALE OF THESE SHARES MAY DEPRESS THE MARKET PRICE.

The market price of our common stock may decline because there are a large number of warrants that may be available for future sale, and the sale of these shares may depress the market price. As of June 7, 2004, we had approximately 8,876,552 plus 3,600,125 (from this offering) shares of common stock issued and outstanding and 3,304,438 outstanding options and warrants to purchase up to 3,304,438 shares of common stock. All of the shares included in this prospectus may be sold without restriction. The sale of these shares may adversely affect the market price of our common stock.

OUR COMMON STOCK IS SUBJECT TO "PENNY STOCK" RULES.

The Securities and Exchange Commission has adopted Rule 15c-9 which establishes the definition of a "penny stock," for the purposes relevant to us, as any equity security that has a market price of less than \$5.00 per share or with an exercise price of less than \$5.00 per share, subject to certain exceptions. For any transaction involving a penny stock, unless exempt, the rules require:

o that a broker or dealer approve a person's account for transactions in penny stocks; and o the broker or dealer receive from the investor a written agreement to the transaction, setting forth the identity and quantity of the penny stock to be purchased.

In order to approve a person's account for transactions in penny stocks, the broker or dealer must:

o obtain financial information and investment experience objectives of the person; and o make a reasonable determination that the transactions in penny stocks are suitable for that person and the person has sufficient knowledge and experience in financial matters to be capable of evaluating the risks of transactions in penny stocks.

The broker or dealer must also deliver, prior to any transaction in a penny stock, a disclosure schedule prepared by the Commission relating to the penny stock market, which, in highlight form:

o sets forth the basis on which the broker or dealer made the suitability determination; and o that the broker or dealer received a signed, written agreement from the investor prior to the transaction.

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We will not receive any proceeds from the sale of common stock by the selling stockholder. All of the net proceeds from the sale of our common stock will go to the selling stockholder. We will receive the proceeds from the exercise of warrants entitling the selling stockholders to purchase 2,160,063 shares from us at an exercise price of \$1.25 per share, 135,000 shares from us at an exercise price of \$1.00 per share, and 865,000 shares from us at an exercise price of \$2.50 per share. If all warrants held by the selling stockholders are exercised, we will receive - \$4,982,578 in proceeds.

We anticipate that any proceeds from the exercise of warrants by the selling stockholders will be used for general corporate purposes, which may include but are not limited to working capital, capital expenditures, acquisitions and the repayment or refinancing of our indebtedness. Pending the application of any proceeds from the exercise of warrants, if any, by the selling stockholders, we expect to invest the proceeds in short-term, interest-bearing instruments or other investment-grade securities.

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SELLING STOCKHOLDERS

The table below sets forth information concerning the resale of the shares of common stock by the selling stockholders. We will not receive any proceeds from the resale of the common stock by the selling stockholders. We will receive proceeds from the exercise of the warrants. Assuming all the shares registered below are sold by the selling stockholders, none of the selling stockholders will continue to own any shares of our common stock.

The following table also sets forth the name of each person who is offering the resale of shares of common stock by this prospectus, the number of shares of common stock beneficially owned by each person, the number of shares of common stock that may be sold in this offering and the number of shares of common stock each person will own after the offering, assuming they sell all of the shares offered.

Offering	Shares Beneficially Owned Prior to the Offering		Total Share Registe
	Number (1)	Percent	
Lerner Enterprises	468,750	*	468,
Wilfred Shearer	375,000	*	375,
Richard Spencer	187,500	*	187,
Bais Yakov Moishe	187,500	*	187,
Michael Vanechanos	187,500	*	187,
Harry & Linda Whale	187,500	*	187,
Herbert Strauss	181,500	*	181,
Sara Heiman	178,125	*	178,
Eliezer Rosenthal	159,375	*	159,
Professional Traders Fund	150,000	*	150,
Frank Vero and Sharon Vero	112,500	*	112,
Mark A. Phelps Catherine L. Phelps	93,750	*	93,
Mitchell Quintner	93,750	*	93,
Danny Goode	93,750	*	93,
Kellog Capital Group LLC	93,750	*	93,

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Leon Goldenberg	93,750	*	93,
Douglas P. Cone, Jr	93,750	*	93,
Judith Glaser	93,750	*	93,
Ami Silberman & Karen	93,750	*	93,
Century Development Corp	93,750	*	93,
Noel Ischy	93,750	*	93,
Shalom Torah Center	75,000	*	75,
Wayne Miller	75,000	*	75,
Van Wyck Window Fashion	75,000	*	75,
Judy Rosenthal	75,000	*	75,
Anthony Costanzo	69,375	*	69,
Ateres Mechoel, Inc.	65,625	*	65,
Daniel Barbara	60,000	*	60,
Anne Oldham	56,250	*	56,
James & Maureen Mcmullen	56,250	*	56,
Dr. Dushan Kosovich	56,250	*	56,
James Schultz	46,875	*	46,
Stuart Margolis	46,875	*	46,
Raymond Labella	46,875	*	46,
David Rubenstein and Deborah S. Rubenstein	46,875	*	46,
Murry Weitman and Toby Weitman	46,875	*	46,
Edward Jaffe	46,875	*	46,
Salvatore Amato	46,875	*	46,
Rachel Mendelowitz	46,875	*	46,
Sal Marsella	46,875	*	46,
Richard Weir Wendy A. Weir	46,875	*	46,
Jerome Miller	46,875	*	46,
Fedele Volpe	46,875	*	46,
James Blumenthal	46,875	*	46,
James Woodworth	46,875	*	46,
John Pearson	46,875	*	46,
Bella Jacobs	46,875	*	46,
Shmyer Breuer	46,875	*	46,
Jacob Gold	46,875	*	46,
Lloyd Cox	46,875	*	46,
Tighe Taylor	46,875	*	46,
Abraham Muller	46,875	*	46,
James Moore Def benefit pl	46,875	*	46,
William Kurinsky (2)	48,437	*	48,
Benjamin Bekhore	46,875	*	46,
Maria Marsella	46,875	*	46,
Salvatore & Carlo Amato	46,875	*	46,

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More Int'l Investments, Inc.	46,875	*	46,
Evangelos Xistris and Carol Monroe	40,875	*	40,
Jay & Marsha Bloom	23,438	*	23,
Edward Pikus	23,438	*	23,
Nuala O'Halloran and Daniel O'Halloran	23,438	*	23,
Israel David Zajac	46,875	*	46,
First Montauk Securities Corp.	326,438	*	326,
George Scritchfield (3)	35,000	*	35,
Wahl, William, Sr.(4)	100,000	*	100,
Raymond James & Assoc. Inc Custodian, Thompson, William (4)	100,000	*	100,
Entrust Admin Services, Inc. FBO			
Ernest Pellegrino (5)	110,500	*	110,
Shirang Jeurkar (6)	16,000	*	16,
Angela Metelitsa (6)	5,500	*	5,
Thompson, John IRA 1106030101(4)	80,000	*	80,

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Thompson, John(4)	70,000	*	70,
Hiliard Lyons Custodian Guzzetti Andrew IRA(4)	50,000	*	50,
Paine, Nicholas c/o Cayman Management Ltd.(4)	35,000	*	35,
Shaver,William M(4)	35,000	*	35,
Canuso, Gerald L(4)	35,000	*	35,
Moorehouse, Thomas R.(4)	35,000	*	35,
Bloom, Jay and Marsha(4)	35,000	*	35,
Paine, Nicholas(4)	35,000	*	35,
Van Note, Stephen(4)	35,000	*	35,
Prudential Securities C/F, Millet-IRA, Julien(4)	35,000	*	35,
Dunning, John D., CrossFire Ventures(4)	20,000	*	20,
Seidel, Jerome Jr.(4)	20,000	*	20,
Pober, Lionel(4)	17,500	*	17,
Wagner Jr., Alvin(4)	17,500	*	17,
Pober, Lionel(4)	17,500	*	17,
Wagner Jr., Alvin(4)	17,500	*	17,
Mandel, Mathew(4)	10,000	*	10,
Siegel, Dean M.(4)	10,000	*	10,
Indictor, Gregg(4)	10,000	*	10,
Lustig, S. Jeffrey(4)	10,000	*	10,
Schiller, Robert B(4)	10,000	*	10,
Entrust Admin Services, Inc. FBO, Steven Bolden IRA #1114030102(4)	10,000	*	10,
Seidel, Jerome Jr.(4)	5,000	*	5,
John Jr. and Mary Ferrino(4)	10,000	*	10,

The number and percentage of shares beneficially owned is determined in accordance with Rule 13d-3 of the Securities Exchange Act of 1934, and the information is not necessarily indicative of beneficial ownership for any other purpose. Under such rule, beneficial ownership includes any shares as to which the selling stockholders has sole or shared voting power or investment power and also any shares which the selling stockholders has the right to acquire within 60 days. The actual number of shares of common stock issuable upon the conversion of the convertible preferred stock is subject to adjustment depending on, among other factors, the future market price of the common stock, and could be materially less or more than the number estimated in the table.

(1) With the exception of First Montauk Securities Corp., the number of shares owned and being registered is comprised of 66.67% of shares of common stock and 33.33% of shares of common stock underlying warrants exercisable at \$1.25. First Montauk Securities Corp. owns (i) 301,438 warrants exercisable at \$1.25 per share; and (ii) 25,000 warrants exercisable at \$1.00 per share.

(2) Includes (i) 31,250 shares of common stock; and (ii) 17,187 shares of common stock underlying warrants.

(3) Represents 35,000 shares of common stock underlying warrants exercisable at \$1.00 per share.

(4) Represents shares of common stock underlying warrants exercisable at \$2.50 per share.

(5) Represents (i) 57,000 shares of common stock underlying warrants exercisable at \$1.25 per share; and (ii) 53,500 shares underlying warrants exercisable at \$1.00 per share. Mr. Pellegrino is affiliated with First Montauk Securities, a broker-dealer and has acquired these securities in the ordinary course of business as compensation.

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(6) Represents shares of common stock underlying warrants exercisable at \$1.00 per share.

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PLAN OF DISTRIBUTION

Each Selling Stockholder (the "Selling Stockholders") of the common stock ("Common Stock") of Airtrax, Inc., a New Jersey corporation (the "Company") and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their shares of Common Stock on the American Stock Exchange or any other stock exchange, market or trading facility on which the shares are traded or in private transactions. These sales may be at fixed or negotiated prices. A Selling Stockholder may use any one or more of the following methods when selling shares:

- o ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- o block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- o purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- o an exchange distribution in accordance with the rules of the applicable exchange;
- o privately negotiated transactions;
- o settlement of short sales;
- o broker-dealers may agree with the Selling Stockholders to sell a specified number of such shares at a stipulated price per share;
- o a combination of any such methods of sale; and
- o any other method permitted pursuant to applicable law.

The selling shareholders may also sell shares under Rule 144 under the Securities Act, if available, rather than under this prospectus.

Broker-dealers engaged by the Selling Stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Stockholders (or, if any broker-dealer acts as agent for the purchaser of shares, from the purchaser) in amounts to be negotiated. The Selling Stockholders do not expect these commissions and discounts to exceed what is customary in the types of transactions involved. One of the Selling Stockholders, First Montauk Securities Corp., is a registered broker dealer and NASD member firm. First Montauk served as placement agent in our recently completed private placement offering, and received, in addition to commissions, warrants to purchase an aggregate of 360,000 shares of our Common Stock with an exercise price of \$1.25 per share. The registration statement of which this Prospectus forms a part includes the shares underlying the warrants held by First Montauk. In addition, First Montauk has been retained as a financial consultant to Airtrax, for which it received cash compensation of \$30,000.

In connection with the sale of our common stock or interests therein, the Selling Stockholders may enter into hedging transactions with broker-dealers or

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other financial institutions, which may in turn engage in short sales of the common stock in the course of hedging the positions they assume. The Selling Stockholders may also sell shares of our common stock short and deliver these securities to close out their short positions, or loan or pledge the common stock to broker-dealers that in turn may sell these securities. The Selling Stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such

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broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The Selling Stockholders and any broker-dealers or agents that are involved in selling the shares may be deemed to be "underwriters" within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the shares purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each Selling Stockholder has informed the Company that it does not have any agreement or understanding, directly or indirectly, with any person to distribute the Common Stock, however, they may elect to sell their shares through First Montauk Securities Corp. as described below. As a broker dealer who is also a selling shareholder, First Montauk may be deemed an underwriter with respect to the shares it may sell pursuant to this Prospectus.

In order to comply with the securities laws of some states, the selling shareholders must sell the shares in those states only through registered or licensed brokers or dealers. In addition, in some states the Selling Stockholders must sell the shares only if we have registered or qualified those shares for sale in the applicable state or an exemption from the registration or qualification requirement is available and the selling shareholder complies with the exemption.

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the shares. The Company has agreed to indemnify the Selling Stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

Because Selling Stockholders may be deemed to be "underwriters" within the meaning of the Securities Act, they will be subject to the prospectus delivery requirements of the Securities Act. In addition, any securities covered by this prospectus which qualify for sale pursuant to Rule 144 under the Securities Act may be sold under Rule 144 rather than under this prospectus. Each Selling Stockholder has advised us that they have not entered into any agreements, understandings or arrangements with any underwriter or broker-dealer regarding the sale of the resale shares. There is no underwriter or coordinating broker acting in connection with the proposed sale of the resale shares by the Selling Stockholders.

First Montauk Securities Corp. served as placement agent in connection with the private placement offering recently completed by us in which we raised \$2,880,100 in gross proceeds. First Montauk is a National Association of Securities Dealers, Inc. member brokerage firm. First Montauk received 360,000 warrants as compensation for its services as placement agent. The warrants have an exercise price of \$1.25 per share. The warrants expire on May 13, 2009. Pursuant to NASD Rule 2710(g)(1), the 360,000 shares of common stock issued or issuable upon conversion of placement agent warrants received by First Montauk are restricted from sale, transfer, assignment or hypothecation for a period of six months from the effective date of this Registration Statement except to

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officers or partners (not directors) of First Montauk and members of the selling group and/or their officers or partners. Additionally, William Kurinsky, who is listed as a selling shareholder, is an officer of First Montauk Securities Corp. All securities (48,437 total shares and warrants) held by Mr. Kurinsky (or any other person who might be associated with First Montauk Securities and receives securities as a transferee in compliance with NASD Rule 2710) will be subject to the same resale, transfer and assignment restrictions as set forth in NASD Rule 2710(g)(1) for six months from the effective date of the Registration Statement.

First Montauk has indicated to us its willingness to act as selling agent on behalf of the selling shareholders named in the Prospectus under "Selling Stockholders" that purchased our privately placed securities. All shares sold, if any, on behalf of selling shareholders by First Montauk would be in transactions executed by First Montauk on an agency basis and commissions charged to its customers in connection with each transaction shall not exceed a maximum of 4.5% of the gross proceeds. First Montauk does not have an underwriting agreement with us and/or the selling shareholders and no selling shareholders are required to execute transactions through First Montauk. In the event that there are other broker dealer firms involved in the distribution of securities on behalf of selling shareholders, the maximum commission or discount to be received will not be greater than 8% of the sale of any securities which were registered pursuant to this prospectus under SEC Rule 415.

NASD Notice to Members 88-101 states that in the event a selling shareholder intends to sell any of the shares registered for resale in this Prospectus through a member of the NASD participating in a distribution of our securities, such member is responsible for insuring that a timely filing is first made with the Corporate Finance Department of the NASD and disclosing to the NASD the following:

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- o it intends to take possession of the registered securities or to facilitate the transfer of such certificates;
- o the complete details of how the selling shareholders shares are and will be held, including location of the particular accounts;
- o whether the member firm or any direct or indirect affiliates thereof have entered into, will facilitate or otherwise participate in any type of payment transaction with the selling shareholders, including details regarding any such transactions; and
- o in the event any of the securities offered by the selling shareholders are sold, transferred, assigned or hypothecated by any selling shareholder in a transaction that directly or indirectly involves a member firm of the NASD or any affiliates thereof, that prior to or at the time of said transaction the member firm will timely file all relevant documents with respect to such transaction(s) with the Corporate Finance Department of the NASD for review.

No persons associated with us or the selling shareholders may participate in the distribution of the shares to be offered by selling shareholders unless they meet the safe harbor provisions of the SEC Rule 3a4-1 promulgated under the Securities Exchange Act of 1934 with respect to exemption from registration as a broker/dealer.

We agreed to keep this prospectus effective until the earlier of (i) the date on

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which the shares may be resold by the Selling Stockholders without registration and without regard to any volume limitations by reason of Rule 144(e) under the Securities Act or any other rule of similar effect or (ii) all of the shares have been sold pursuant to the prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale shares will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale shares may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale shares may not simultaneously engage in market making activities with respect to our common stock for a period of two business days prior to the commencement of the distribution. In addition, the Selling Stockholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of shares of our common stock by the Selling Stockholders or any other person. We will make copies of this prospectus available to the Selling Stockholders and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale.

Any selling shareholder may from time to time pledge or grant a security interest in some or all of the shares of common stock or warrants owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock from time to time under this prospectus, or under an amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933 amending the list of selling shareholders to include the pledgee, transferee or other successors in interest as selling shareholders under this prospectus.

The selling shareholders also may transfer the shares of common stock in other circumstances, in which case the transferees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

At the time a selling shareholder makes a particular offer of shares we will, if required under applicable rules and regulations, distribute a Prospectus supplement that will set forth:

- o the number of shares that the Selling Holder is offering;
- o the terms of the offering, including the name of any underwriter, dealer or agent;
- o the purchase price paid by any underwriter;
- o any discount, commission and other underwriter compensation;
- o any discount, commission or concession allowed or reallocated or paid to any dealer; and
- o the proposed selling price to the public.

We will not receive any proceeds from sales of any shares by the selling shareholders.

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Our authorized capital stock consists of 20,000,000 shares of Common Stock without par value.

The following is a description of the material terms of our common stock.

COMMON STOCK

The holders of the issued and outstanding shares of common stock are entitled to receive dividends when, as and if declared by our Board of Directors out of any funds lawfully available therefore. The Board of Directors intends to retain future earnings to finance the development and expansion of our business and does not expect to declare any dividends in the foreseeable future. The holders of the common stock have the right, in the event of liquidation, to receive pro rata all assets remaining after payment of debts and expenses. The common stock does not have any preemptive rights and does not have cumulative voting rights. The issued and outstanding shares of common stock are fully paid and nonassessable.

Holders of shares of common stock are entitled to vote at all meetings of such shareholders for the election of directors and for other purposes. Such holders have one vote for each share of common stock held by them.

TRANSFER AGENT

Signature Stock Transfer has been appointed the transfer agent of our common stock and preferred stock.

LEGAL MATTERS

The validity of the issuance of the shares being offered hereby will be passed upon for us by Sichenzia Ross Friedman Ference LLP, New York, New York.

EXPERTS

The financial statements as of December 31, 2003 and for the years ended December 31, 2003 and 2002 incorporated in this prospectus, to the extent and for the periods indicated in their reports, have been audited by Robert G. Jeffrey, Certified Public Accountant and are included herein in reliance upon the authority of this firm as experts in accounting and auditing.