AETHER SYSTEMS INC
Form DEFM14A
August 23, 2004

SCHEDULE 14A
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities

Exchange Act of 1934 (Amendment No.)

Filed by the Registrant þ

Filed by a Party other than the Registrant o

Check the appropriate box:

o Preliminary Proxy Statement
o Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
þ Definitive Proxy Statement
o Definitive Additional Materials
o Soliciting Material Pursuant to Rule 14a-11(c) or Rule 14a-12

Aether Systems, Inc.

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

o No fee required.

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(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

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Amount previously paid:

Form, schedule or registration statement no.:

Filing party:

Date filed:

August 23, 2004

Dear Stockholder:

You are cordially invited to attend a special meeting of stockholders of Aether Systems, Inc., to be held on September 15, 2004, at the Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202 at 10:00 a.m. At this meeting, we will seek stockholder approval of the sale of the assets of our Transportation segment.

On July 20, 2004, we entered into an asset purchase agreement to sell to Slingshot Acquisition Corporation the assets of our Transportation segment. Our Transportation segment provides mobile and wireless solutions to the fleet management and transportation markets. The asset purchase agreement provides that Slingshot will assume certain of our liabilities relating to our Transportation segment. The aggregate purchase price for these assets is $25 million in cash, subject to a post-closing net working capital adjustment. Slingshot is a company that was formed to acquire our Transportation segment by Platinum Equity Capital Partners, L.P., which together with affiliated private equity funds is a $700 million private equity fund. Platinum Equity Capital Partners, L.P. has agreed to provide up to 100% of the funds that Slingshot will require to complete the purchase of our Transportation segment.

Before deciding how to vote, you should review in detail the attached proxy statement for a more detailed explanation of the proposal to approve the sale of our Transportation agreement, a description of the asset purchase agreement, the background of the decision to enter into the asset purchase agreement, the reasons that our board of directors has decided to recommend that you approve the asset sale and a discussion of risk factors relating to the proposed asset sale, which appears in the section entitled Risk Factors.

Our board of directors has unanimously approved the proposed sale of assets described in the proxy statement and is recommending that stockholders also approve it.

Whether or not you plan to attend the special meeting, please complete, sign and date the accompanying proxy card and return it in the enclosed prepaid envelope. Failure to return a properly executed proxy card or to vote at the special meeting will have the same effect as a vote AGAINST the adoption of the asset purchase agreement and the approval of the sale of our Transportation segment. If you attend the special meeting, you may revoke your proxy and vote in person if you wish, even if you have previously returned your proxy card. Your prompt cooperation will be greatly appreciated.

Sincerely,

David S. Oros
Chairman of the Board
and Chief Executive Officer

Your Vote is Important

Please execute and return the enclosed Proxy promptly,
whether or not you plan to attend the special meeting of stockholders.

AETHER SYSTEMS, INC.

11500 CRONRIDGE DRIVE, SUITE 110
OWINGS MILLS, MARYLAND 21117

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
TO BE HELD ON SEPTEMBER 15, 2004

DATE: September 15, 2004
TIME: 10:00 a.m. local time
PLACE: Renaissance Harborplace Hotel
202 East Pratt Street,
Baltimore, MD 21202

YOUR VOTE IS IMPORTANT TO US

Dear Stockholder:

Notice is hereby given that Aether Systems, Inc. will hold a Special Meeting of Stockholders on September 15, 2004 at the Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202, at 10:00 a.m., local time. At the Special Meeting, we will ask you to:

1. To approve the sale of the assets of our Transportation segment to Slingshot Acquisition Corporation under the terms of the asset purchase agreement attached as Appendix A to the proxy statement; and

2. To transact such other business as may properly come before the meeting.

Your board of directors has unanimously approved and recommends that you vote FOR the proposed sale of assets, which is described in the attached proxy statement.

Only holders of record of common stock as of the close of business on August 4, 2004 will be entitled to notice of and to vote at the Special Meeting or any adjournment thereof. This notice and proxy are first being mailed to stockholders on or about August 25, 2004.

Stockholders are urged to carefully review the information contained in the enclosed proxy statement prior to deciding how to vote their shares at the Special Meeting.

Because of the significance of the sale of our Transportation segment, your participation in the Special Meeting, in person or by proxy, is especially important. **Whether or not you plan to attend the Special Meeting, please complete, sign, date and return the enclosed proxy card promptly.**

If you attend the Special Meeting, you may revoke your proxy and vote in person if you wish, even if you have previously returned your proxy card. Simply attending the Special Meeting, however, will not revoke your proxy, you must vote at the Special Meeting. If you do not attend the Special Meeting, you may still revoke your proxy at ant time prior to the Special Meeting by providing a later-dated proxy or by providing me with written notice of your revocation. Your prompt cooperation will be greatly appreciated.

BY ORDER OF THE BOARD OF DIRECTORS

David C. Reymann
Secretary

Owings Mills, Maryland

August 23, 2004

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SUMMARY TERM SHEET

This summary term sheet highlights material terms of the proposed sale of assets of our Transportation segment and selected information in this proxy statement and does not contain all of the information that may be important to you in evaluating the proposed sale. To understand fully the proposed sale of the assets of our Transportation segment, we strongly encourage you to read this proxy statement including the information incorporated by reference and the appendices. We have included page references in this summary to direct you to a more complete discussion in the proxy statement.

Slingshot and Platinum Equity (see page 35)	Slingshot Acquisition Corporation, or Slingshot, is a Delaware corporation formed by Platinum Equity Capital Partners, L.P. to purchase the assets of our Transportation segment under the asset purchase agreement we entered into on July 20, 2004. Platinum Equity Capital Partners, L.P., a Delaware limited partnership, together with its affiliated private equity funds is a $700 million private equity fund and the 100% owner of Slingshot. In this proxy statement, we refer to Platinum Equity Capital Partners, L.P. as the Fund. Platinum Equity, an affiliate of Slingshot and the Fund, is a global M&A&O^{SM} firm specialized in the merger, acquisition and operation of mission-critical services and solutions companies. Since its founding in 1995, Platinum Equity has acquired more than 40 businesses and built a portfolio of 19 market-leading companies with over 32,000 employees, more than 600,000 customer sites and annual revenues of $5.5 billion. In this proxy statement, references to Platinum Equity mean Platinum Equity, LLC and its affiliates, including the Fund and Slingshot. Platinum Equity has its principal place of business at 2049 Century Park East, Suite 2700, Los Angeles, CA 90067, telephone: (310) 712-1850.
Aether (see page 35)	We provide wireless and mobile data solutions that increase efficiency and productivity for the transportation, fleet management, and mobile government markets. In our Transportation segment, which is the subject of the proposed sale described in this proxy statement, our transportation and fleet management solutions, including the MobileMax^{TM} multi-mode system, offer wireless data and asset-tracking and vehicle-positioning features. In our Mobile Government segment, our public safety solutions help hundreds of police and fire departments in North America leverage the power of wireless information for improved service to the public. As previously announced, we have entered into an agreement to sell our Mobile Government segment to BIO-key International, Inc. We have also implemented a new strategy in which we will focus on building and managing a leveraged portfolio of mortgage-backed securities. Our principal place of business is at 11500 Cronridge Drive, Suite 110, Owings Mills, Maryland 21117, telephone: (410) 654-6000.
Guarantee and Funding (see page 30)	The Fund has absolutely and unconditionally guaranteed the payment and performance of all obligations of Slingshot under the asset purchase agreement and will provide Slingshot with up to 100% of the necessary funding to enable Slingshot to purchase our Transportation assets. If Slingshot defaults in the payment or performance of any of its obligations under the asset purchase agreement, the Fund has agreed to perform such obligations. The Fund s guarantee will survive termination of the asset purchase agreement if the asset purchase agreement is terminated because of a material breach of a representation or covenant or is terminated by Slingshot in breach of the terms of the asset purchase agreement. If the sale of assets is completed, the Fund s guarantee obligations shall terminate at the closing.

Purchase Price (see page 37)	The purchase price is $25 million in cash, subject to a post-closing net working capital adjustment.
Fairness of Consideration (see page 21)	Our board of directors received the written opinion of our financial advisor, Friedman, Billings, Ramsey & Co., Inc., or FBR, dated July 20, 2004, that states, based on and subject to the qualifications and considerations set forth in the opinion, the consideration to be paid to Aether in the transaction is fair, from a financial point of view, to Aether. The full text of the written opinion of FBR, which sets forth assumptions made, matters considered and limitations on the review undertaken, is attached to this proxy statement as Appendix B. The written opinion of FBR is not a recommendation as to how you should vote in regard to the proposal to approve the asset purchase agreement.
Reason for the Sale of Assets (see page 19)	We believe that the sale of our Transportation segment and the terms of the asset purchase agreement, which is attached as Appendix A, are in the best interests of Aether and its stockholders. Our board of directors identified various benefits that are likely to result from the sale of our Transportation segment. Our board of directors believes that the sale of the Transportation segment is consistent with our objectives of achieving profitability as quickly as possible and enhancing the value of our assets to our stockholders. Our board concluded that rather than continuing to invest in the Transportation segment in an effort to achieve profitability, we should sell the business and use the proceeds to invest in a leveraged portfolio of mortgage-backed securities, which we plan to make our primary business focus going forward. In deciding to authorize the sale of our Transportation segment, our board of directors considered a number of positive and negative factors, including the opinion we received from FBR that the consideration to be paid to us in the transaction is fair to us from a financial point of view.
Assets to be Sold (see page 35)	We are selling all of the assets used primarily in the operation of our Transportation segment, subject to the terms of the asset purchase agreement. The unaudited financial statements of the Transportation segment are attached as Appendix D to this proxy statement.
Liabilities Assumed and Excluded (see page 35)	Slingshot has agreed to assume liabilities: relating to the purchased assets, including the assumed contracts; incurred in connection with, or arising out of, the ownership or operation of the Transportation segment on or after the closing date; set forth on the closing statement of assets and liabilities; and associated with certain product warranty claims and product defects. Slingshot is not assuming any liabilities of the Transportation segment other than as described above. For example, Slingshot is not assuming: pre-closing tax liabilities; liabilities related to pre-closing breaches of contract (including warranties) or torts; indebtedness for borrowed money; liabilities between us and our subsidiaries;

liabilities related to excluded assets;
pre-closing liabilities related to environmental laws; and
liabilities arising from litigation based on our activities before the closing.

Conditions to the Sale of Assets (see page 43)

The obligation of each party to complete the purchase and sale of the Transportation segment is subject to the satisfaction or waiver of the following conditions:

- receipt of authorizations, consents, approvals and permits of governmental authorities as specified in the asset purchase agreement;
- absence of any injunction or order that would restrain or otherwise prevent the proposed sale;
- approval of the proposed sale by our stockholders; and
- execution of the ancillary agreements by us and Slingshot.

Our obligation to complete the sale of the Transportation segment is subject to the satisfaction or waiver of the following conditions:

- Slingshot having performed in all material respects its pre-closing obligations and covenants;
- representations and warranties of Slingshot that are qualified as to materiality being true and correct, except where failures do not have a material adverse effect on the business, operations or financial condition of Slingshot that adversely affects Slingshot s ability to conclude the proposed sale; and
- representations and warranties of Slingshot that are not qualified as to materiality being true and correct in all material respects, except where failures do not have a material adverse effect on the business, operations or financial condition of Slingshot that adversely affects Slingshot s ability to conclude the proposed sale.

Slingshot s obligation to complete the purchase of the Transportation segment is subject to the satisfaction or waiver of the following conditions:

- Aether having performed in all material respects with its pre-closing obligations and covenants;
- our representations and warranties that are qualified as to materiality being true and correct except for changes contemplated by the asset purchase agreement and where failures do not have a material adverse effect;
- our representations and warranties that are not qualified as to materiality being true and correct in all material respects, except for changes contemplated by the asset purchase agreement and where failures do not have a material adverse effect;
- the absence of a material adverse effect; and
- receipt of consents from third parties to assignment of permits and certain material contracts.

Non-Solicitation (see page 39)

We have agreed that we will not solicit a proposal for or provide information with respect to:

- the acquisition of more than 20% of the outstanding shares of our common stock, or
- 10% of the assets used in the Transportation segment.

If we receive an unsolicited offer that the board determines would be more favorable to us and our stockholders, we can provide information to and enter into negotiations with the person making the offer, but we must inform Slingshot of the material terms of the offer and identity of the person making the offer. We may accept a superior proposal and terminate the asset purchase agreement but we will have to pay a termination fee in an amount not to exceed $1.25 million (as described below under the heading Termination). We are not limited or restricted from discussing or negotiating with respect to any transaction that does not involve the Transportation segment.

Indemnification (see page 44)

The parties have agreed to indemnify one another for breaches of representations, warranties and covenants contained in the asset purchase agreement. Slingshot s right to indemnification will arise after its losses reach $250,000 and then our liability is for the excess above $250,000. A party s maximum aggregate liability for breaches of most of its representations and warranties is $10 million. For breaches of certain specified representations and warranties, the maximum aggregate liability is the purchase price.

Termination (see page 45)

The asset purchase agreement may be terminated at any time prior to closing:

- by mutual consent of the parties;
- by either party, if the closing does not take place before December 31, 2004;
- by either party, if a court or governmental entity permanently enjoins, restrains or prohibits the sale;
- by us, if we decide to accept a superior proposal and pay the required termination fee to Slingshot;
- by Slingshot, if our board of directors withdraws its recommendation to our stockholders or our board of director s recommends or approves another acquisition proposal;
- by either party, if the asset purchase agreement is not approved by our stockholders; and
- by either party, if the non-terminating party has breached any representation or warranty or covenant in any material respect, such breach results in a closing condition related to performance of a covenant or related to the truth of a representation or warranty to fail to be satisfied and such breach is not cured within sixty (60) days.

We have agreed to pay Slingshot a fee equal to $1 million *plus* the reasonable out-of-pocket expenses incurred in connection with the negotiation and preparation of the asset purchase agreement (not to exceed $250,000) if we terminate the asset purchase agreement to pursue a superior proposal or either Aether or Slingshot terminates the asset purchase agreement after our board of directors withdraws or modifies its recommendation of the proposed sale in a manner adverse to Slingshot. Also, we have agreed to pay Slingshot a fee equal to $500,000 plus fees and expenses (not to exceed $250,000) if our stockholders fail to approve the transaction.

Closing (see page 41)

If our stockholders approve the sale of the Transportation segment and the other conditions to the sale of assets are then satisfied, the closing is anticipated to occur on the second business day after the special meeting.

Risk Factors (see page 32)	There are risks and uncertainties related to the proposal to sell our Transportation segment and risks and uncertainties related to our company if the proposed sale is completed that you should carefully consider in deciding how to vote on the proposed sale. If any of these risks occur, our business, financial condition or results of operation could be materially adversely affected, the value of our common stock could decline and you may lose all or part of your investment.
Accounting Treatment (see page 30)	The proposed sale of our Transportation segment will be accounted for as a sale of net assets. During the three months ended June 30, 2004, we recognized an impairment loss of $26.6 million related to goodwill and certain other long-lived assets based upon the value implied by the negotiated sale price for the business. Accordingly, we believe, but cannot be certain, that further gains or losses upon consummation of the sale of the Transportation segment will not be material. If the stockholders approve the sale of the Transportation segment, the historical and future financial results of the Transportation segment will be reported as results of discontinued operations in our statements of operations. As a result of our recent agreement to sell our Mobile Government segment to BIO-key International, we expect that we will reclassify the historical and future results of the Mobile Government business to discontinued operations in the third quarter.
Tax Consequences (see page 31)	The proposed sale will be a taxable sale of the assets of the Transportation segment. We anticipate that we will be able to offset substantially all of the taxable gain we recognize for United States federal income tax purposes against our current operating and capital losses and net operating and capital loss carryforwards.
	The closing of the sale of assets contemplated by the asset purchase agreement will not be a taxable event for our stockholders under applicable United States federal income tax laws.
Required Approvals (see page 30)	Neither we nor Slingshot are aware of any regulatory requirements or governmental approvals or actions that will be required to consummate the sale of our Transportation segment, except for compliance with the applicable regulations of the Securities and Exchange Commission in connection with this proxy statement and the Delaware General Corporation Law in connection with the stockholders approval requested at the special meeting.
Appraisal Rights (see page 30)	Under Delaware law and our certificate of incorporation and bylaws, our stockholders have no appraisal rights as a result of the sale of our Transportation segment.
Fees and Expenses (see page 46)	Except for fees payable in the event of a termination of the asset purchase agreement, (as described above under the heading Termination), each party is responsible for its own fees and expenses incurred in connection with the proposed sale of assets, including the fees and expenses associated with the filing, printing and mailing of this proxy statement. We anticipate our total costs, which will include legal, investment banking and accounting fees and expenses and the costs of preparing, mailing, and soliciting proxies pursuant to this proxy statement, will be approximately $2.5 million.
Payment to Stockholders (see page 10)	All of the consideration received in the proposed sale will be paid to us by Slingshot, and holders of our common stock will not receive any payment as a result of the asset sale.

Principal Stockholder Agreement (see page 29)	David S. Oros, our Chairman and Chief Executive Officer, NexGen Technologies, L.L.C. and Slingshot entered into the principal stockholder agreement. Under this agreement, Mr. Oros agreed to vote all of the shares of common stock he owns directly and beneficially through NexGen Technologies in favor of the asset purchase agreement. The shares Mr. Oros agreed to vote represent approximately 10% of the outstanding shares of Aether. Mr. Oros did not receive any consideration for entering into the principal stockholders agreement.
Interests of Directors and Executive Officers (see page 29)	Except as described below, our executive officers and directors own our common stock and/or options to purchase shares of our common stock and to that extent their interest in the sale is the same as that of the other holders of our common stock.
	Pursuant to his employment agreement, Frank Briganti, President of the Transportation segment, will receive a bonus equal to 0.5% of the purchase price, or approximately $125,000, vesting on 10,125 options to purchase our common stock and the lapse of forfeiture provisions applicable to 3,333 restricted shares of our common stock that he owns upon completion of the proposed sale.
	As of August 4, 2004, our directors and executive officers owned of record 6,388,175 shares of our outstanding common stock, representing approximately 14% of the outstanding votes of common stock. The vote of holders of a majority of the shares of Aether s common stock outstanding on the record date is required to approve the asset purchase agreement.
6% Convertible Subordinated Notes (see page 30)	The indenture governing our 6% senior convertible subordinated notes requires that we offer to repurchase the notes in the event of the sale of substantially all of our assets within 45 business days of the closing of the proposed sale. We have decided to treat the sale of our Transportation segment as a sale of substantially all of our assets for this purpose. As a result, the holders of our 6% convertible subordinated notes will have the right to require us to repurchase their outstanding notes for the principal amount outstanding *plus* accrued and unpaid interest to the date of repurchase. We will repurchase notes of holders who properly exercise the repurchase right in accordance with the terms of the notes.
	In lieu of making this repurchase offer, we are considering redeeming the notes in accordance with the terms of the indenture for a price of 101.2% of the principal amount of each outstanding note *plus* accrued interest up to the redemption date. If we were to redeem the notes as of September 30, 2004, we estimate that we would pay approximately $161.6 million to redeem the notes, and we would incur a charge to earnings of approximately $2.4 million comprised of $1.8 million attributable to the premium payable on the redemption and $0.6 million of deferred financing costs. Any decision to redeem the notes must be approved by our board of directors.
Mobile Government Segment (see page 31)	We announced on August 16, 2004 that we entered into a definitive agreement to sell our Mobile Government segment to BIO-key International, Inc. for $10 million in cash.
	Whether or not the proposed sale of our Transportation segment is approved by holders of a majority of our common stock and then completed we do not anticipate that we will seek additional stockholder approval for the sale of our Mobile Government segment.

Recommendation	The board of directors unanimously recommends you vote FOR the approval of the asset purchase agreement. Please vote your shares as soon as possible so that your shares may be represented at the special meeting. You may vote by signing and dating your proxy card and mailing it in the enclosed return envelope, or you may vote in person at the special meeting.

QUESTIONS AND ANSWERS REGARDING THE SPECIAL MEETING

Set forth below are some key questions and answers to provide you with more information about the special meeting. These questions and answers are qualified in their entirety by reference to the more detailed information appearing elsewhere in or accompanying this proxy statement. We urge you to review the entire proxy statement and accompanying materials carefully.

SPECIAL MEETING AND VOTING

Q: ***Why am I receiving this proxy statement?***

A: You have received this proxy statement and the enclosed proxy card from us because you held shares of our common stock on August 4, 2004.

Q: ***What is the proposal I will be voting on at the special meeting?***

A: As a stockholder, you are entitled to and requested to approve the sale of substantially all of our assets comprising our Transportation segment pursuant to the asset purchase agreement among Slingshot Acquisition Corporation, Platinum Equity Capital Partners, L.P. and Aether Systems, Inc., dated July 20, 2004.

Q: ***Who is entitled to vote?***

A: Only holders of record shares of common stock on the close of business on August 4, 2004 will be entitled to vote at the special meeting. On August 25, 2004, we began mailing this proxy statement to all persons entitled to vote at the special meeting.

Q: ***When and where is the special meeting being held?***

A: The special meeting is being held on September 15, 2004 at the Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202, at 10:00 a.m., local time.

Q: ***What vote is required to approve the sale of the assets of the Transportation segment?***

A: Under Delaware law and our by-laws, the affirmative vote of the holders of a majority of our outstanding shares of common stock is required to approve the transaction.

Q: ***Who is soliciting my proxy?***

A: Our board of directors.

Q: ***How does the board recommend that I vote at the special meeting?***

A: Our board of directors unanimously recommends that you vote FOR the sale of our Transportation segment.

Q: ***How is my vote counted if I vote by proxy?***

A: If you decide to vote by proxy, your proxy card will be valid only if you sign, date and return it before the special meeting to be held on September 15, 2004. You may vote FOR, AGAINST or ABSTAIN. If you fail to vote FOR the sale or you ABSTAIN, it has the same effect as a vote AGAINST the proposal.

Q: ***What if my shares are held in street name, will my broker be able to vote my shares?***

A: Yes, but only if you provide instructions to your broker on how to vote.

Q: ***Can I change my vote after I have mailed my signed proxy card?***

A: Yes, you may change your vote at any time before your shares are voted at the special meeting. You may change your vote in one of three ways.

1. You may notify the Secretary of Aether in writing before the special meeting that you wish to revoke your proxy. In this case, please contact Aether Systems, Inc., 11500 Cronridge Drive, Suite 110, Owings Mills, Maryland 21117, Attention: David C. Reymann, Secretary.

2. You may submit a proxy dated later than your original proxy.

3. You may attend the special meeting and vote. Merely attending the special meeting will not by itself revoke a proxy; you must obtain a ballot and vote your shares to revoke the previously submitted proxy.

PROPOSED SALE OF ASSETS

Q: ***What line of business is conducted through the Transportation segment?***

A: Our Transportation segment provides mobile and wireless solutions to the fleet management and transportation markets. Our customers are primarily the owners and operators of truck and other vehicle fleets. Our products offer

wireless data and asset tracking and vehicle positioning features.

Q: ***What is the purchase price that Slingshot has agreed to pay for the Transportation segment?***

A: Slingshot has agreed to pay us $25 million in cash, subject to an adjustment up or down after closing based on the net working capital of the Transportation segment at closing. Slingshot also will assume certain liabilities associated with the Transportation segment.

Q: ***Why is Aether proposing to sell the Transportation segment?***

A: We believe, after considering a number of different alternatives, that the sale is consistent with our objectives of achieving profitability as quickly as possible and enhancing the value of our assets to our stockholders. Our board of directors concluded that rather than continuing to invest in the Transportation segment in an effort to achieve profitability, we should sell the business and use the proceeds to invest in a leveraged portfolio of mortgage-backed securities, which we plan to make our primary business focus going forward.

Q: ***Did the board receive a fairness opinion on the sale of the Transportation segment*****?**

A: Yes. On July 20, 2004, the board of directors received an opinion from our financial advisor, Friedman, Billings, Ramsey & Co. Inc., that, based on and subject to the qualifications and considerations described in the opinion the consideration to be paid to Aether in the transaction is fair, from a financial point of view, to Aether. A copy of this opinion is attached as Appendix B to this proxy statement and a more detailed summary of the opinion is set forth on page 21.

Q: ***What if Aether receives another offer for the Transportation segment*****?**

A: We may discuss the sale of the Transportation segment with another person in response to an unsolicited offer that our board of directors determines would be more favorable to Aether and its stockholders. In addition, we may accept a superior offer and terminate the asset purchase agreement if we pay Slingshot a termination fee of $1 million *plus* its fees and expenses up to $250,000.

Q: ***What happens if the asset purchase agreement is not approved by holders of a majority of Aether s outstanding shares?***

A: The asset purchase agreement may be terminated by either Slingshot or us, in which case we will have to pay a termination fee to Slingshot in the amount of $500,000 *plus* Slingshot s reasonable out-of-pocket expenses up to $250,000. In addition, in such event we will need to decide whether to pursue another sale of the Transportation segment. We may not be able to sell the Transportation segment to another buyer on similar terms or at all. If we cannot sell the Transportation segment on terms we consider acceptable, we may be required to reconsider our future business strategy, in which event we might continue to own and operate the Transportation segment.

Q: ***Will I be able to vote on the sale of the Mobile Government segment?***

A: No. Whether or not the proposed sale of the Transportation segment is approved by holders of a majority of our common stock and then completed, we do not anticipate that we will seek additional stockholder approval for the sale of the Mobile Government segment.

Q: ***Will I owe any federal income tax as a result of the asset sale?***

A: No. You will not owe any federal income tax as a result of the asset sale.

Q: ***Will any of the proceeds from the sale of the Transportation segment be distributed to me as a stockholder?***

A: No. We intend to retain the proceeds and use them in our future business plan.

Q: ***Can I still sell my shares?***

A: Yes. The sale of our Transportation segment will not affect your right to sell or otherwise transfer your shares of common stock.

Q: ***Who can I contact with questions about the proposal?***

A:

If you have more questions about the sale of assets or would like additional copies of this proxy statement, you should contact David C. Reymann, Aether s Chief Financial Officer, at (410) 654-6400.

In addition, Aether is a public company and is required to file reports and other information

with the SEC. You may read and copy this information at the SEC s public reference facilities. You may call the SEC at 1-800-SEC-0330 for information about these facilities. This information is also available at the SEC s Internet site at www.sec.gov and you can also request copies of these documents from us.

AETHER SYSTEMS, INC.

11500 Cronridge Drive, Suite 110
Owings Mills, Maryland 21117

INFORMATION ABOUT THE SPECIAL MEETING AND VOTING

Time and Place

The special meeting will be held on September 15, 2004 at the Renaissance Harborplace Hotel, 202 East Pratt Street Baltimore, MD 21202 , at 10:00 a.m., local time.

Proposal to be Considered

At the special meeting, we will ask our stockholders to consider and vote upon the sale of the assets comprising our Transportation segment pursuant to the asset purchase agreement by and between Aether, Slingshot Acquisition Corporation and Platinum Equity Capital Partners, L.P., dated as of July 20, 2004.

Our board of directors is not aware of any other matters to be presented at the special meeting. If any other matters should properly come before the special meeting, the persons named as proxies in the enclosed proxy card will vote the proxies in accordance with their best judgment.

This Proxy Solicitation

We are sending you this proxy statement because our board of directors is seeking a proxy to vote your shares at the special meeting. This proxy statement is intended to assist you in deciding how to vote your shares. At the close of business on August 4, 2004, there were 43,826,736 shares of common stock outstanding, which constitute all of the outstanding voting shares of Aether. Only holders of record shares of common stock on the close of business on August 4, 2004 will be entitled to vote at the special meeting. On August 25, 2004, we began mailing this proxy statement to all persons who will be entitled to vote at the special meeting.

We are paying the cost of requesting these proxies. Our directors, officers and employees may request proxies in person or by telephone, mail, facsimile or otherwise, but they will not receive additional compensation for their services. In addition, we have retained Innisfree M&A, Incorporated to assist us in soliciting proxies for the special meeting. We have agreed to reimburse Innisfree M&A Incorporated for its reasonable expenses, to indemnify it against certain losses, costs and expenses and to pay its fees, which all together we estimate will not exceed $15,000. We will reimburse brokers and other nominees for their reasonable out-of-pocket expenses for forwarding proxy materials to beneficial owners of our common stock shares.

In this proxy statement, Aether, the company, we and our refer to Aether Systems, Inc. and its subsidiaries and predecessors. Also, in this proxy statement, Fund refers to Platinum Equity Capital Partners, L.P., Slingshot refers to Slingshot Acquisition Corporation, a wholly-owned subsidiary of the Fund and Platinum Equity refers to Platinum Equity, LLC and its affiliates, including the Fund and Slingshot, each with its principal place of business at 2049 Century Park East, Suite 2700, Los Angeles, CA 90067, telephone: (310) 712-1850.

Voting Your Shares

You may vote your shares at the special meeting either in person or by proxy. To vote in person, you must attend the special meeting and obtain and submit a ballot. Ballots for voting in person will be available at the special meeting. To vote by proxy, you must complete and return the enclosed proxy card in time to be received by us before the special meeting. By completing and returning the proxy card, you will be directing the persons designated on the proxy card to vote your shares at the special meeting in accordance with the instructions you give on the proxy card.

Stockholders who hold shares registered in the name of a broker or other nominee may generally only vote pursuant to the instructions given to them by their broker or other nominee. If you hold shares registered in the name of a broker or other nominee, generally the nominee may only vote your shares as you direct the nominee, pursuant to the instructions given to you by the nominee. However, if the nominee has not timely received your directions, the nominee may vote on matters for which it has discretionary voting authority. Brokers will not have discretionary voting authority to vote on the proposal to approve the asset purchase agreement. Brokers will have discretionary voting authority to vote on routine matters incident to the conduct of the special meeting. If a nominee cannot vote on a matter because it does not have discretionary voting authority, this is a broker non-vote on that matter. In order to vote their shares by attending the special meeting, as opposed to directing their broker or nominee to vote their shares, stockholders who hold shares registered in the name of a broker or other nominee generally must bring to the special meeting a legal proxy from the broker or nominee authorizing them to vote the shares.

Quorum

Failure to return a proxy or vote in person will not affect the outcome of the proposal as long as a quorum is achieved. A quorum for the transaction of business at the special meeting will be established by the presence, in person or by proxy, of a majority of the shares of our common stock issued and outstanding on the record date. Abstentions and broker non-votes each will be included in determining the number of shares present and voting at the meeting for the purpose of determining the presence of a quorum. In the event that a quorum is not present at the time the special meeting is convened, or if for any other reason we believe that additional time should be allowed for the solicitation of proxies, we may adjourn the special meeting and the persons named in the enclosed proxy will vote all shares of common stock for which they have voting authority in favor of that adjournment.

Vote Required

Each share of our common stock issued and outstanding on the record date will be entitled to one vote. The asset purchase agreement and the sale of our Transportation segment will be approved if the holders of a majority of the outstanding shares of our common stock entitled to vote affirmatively vote to approve the asset purchase agreement.

Because authorization of the sale of assets contemplated by the asset purchase agreement requires the affirmative vote of a majority of the outstanding shares of our common stock entitled to vote, abstentions and broker non-votes will have the same effect as votes against the approval of the asset purchase agreement. In addition, the failure of a stockholder to return a proxy or to vote in person or to direct its broker or other nominee to vote its shares will have the effect of a vote against approval of the asset purchase agreement. Brokers holding shares for beneficial owners cannot vote on the proposal without the owners specific instructions. Accordingly, stockholders are encouraged to return the enclosed proxy card marked to indicate their grant of a proxy or to follow the instructions for voting provided by their broker or other nominee.

Revoking Your Proxy

If you decide to change your vote, you may revoke your proxy at any time before it is voted. You may revoke your proxy in one of the following three ways:

1. You may notify the Secretary of Aether in writing that you wish to revoke your proxy. Please contact: Aether Systems, Inc., 11500 Cronridge Drive, Suite 110, Owings Mills, Maryland 21117, Attention: David C. Reymann, Secretary. We must receive your notice before the time of the special meeting.

2. You may submit a proxy dated later than your original proxy.

3. You may attend the special meeting and vote. Merely attending the special meeting will not by itself revoke a proxy. You must obtain a ballot and vote your shares to revoke the proxy.

BACKGROUND FOR THE SALE OF TRANSPORTATION SEGMENT

Since 2001, we have been working to make our company profitable and to enhance the value to our stockholders of our business operations. In 2001, we began a significant restructuring that substantially reduced our operating expenses. Despite this substantial reduction of expenses, our business has continued to lose money each year.

In early 2002, we engaged our first financial advisor, a nationally recognized investment bank, to provide us with advice on a range of possible strategic options, including acquisitions, dispositions, financings and other possible alternatives. Although we discussed a number of different possible exit strategies with our first financial advisor, we did not pursue any particular options in 2002.

During the first half of 2003, management, together with our board of directors, discussed options that included the sale of one or more of our operating segments, a sale of the entire company, a merger of the company with another wireless communications company, potential acquisitions that would complement one or more of our existing businesses or involve new lines of business, and the pursuit of strategic relationships that would enhance the value of our existing businesses. Also, because the board viewed the substantial net operating losses we had accumulated as an asset, the board discussed various alternatives to maximize the value of this asset. As part of this process, in May 2003, our board of directors authorized management, working with our first financial advisor, to explore whether there would be serious interest by any third parties in purchasing all or a portion of our business. During June and July of 2003, our first financial advisor, together with management, prepared a confidential information memorandum on our company and its three operating segments and commenced a competitive process to explore these possible options. Our first financial advisor sent these offering materials, subject to the terms of confidentiality agreements, to more than 75 parties that it felt might have interest in a transaction with us.

In response to this process, approximately 35 parties expressed interest in one or more of our businesses. Together with our first financial advisor, our senior management made presentations during August and September of 2003 to many of these parties and we established a data room at the offices of Kirkland & Ellis LLP, our principal outside attorneys, so that interested parties could review information about our businesses.

By September 2003, this process had not resulted in any serious offers to purchase the Transportation segment. During this process, however, we became aware of a privately owned company that was providing technology and services that enabled customers to manage their transportation systems, assets and transactions. Mr. Oros, our Chairman and CEO, together with other members of our senior management team, had several conversations and meetings with representatives of the controlling stockholder of this company to begin exploring a possible business combination. Based upon these initial conversations, they formed an initial view that such a business combination could be beneficial to us and to our stockholders because the private company (a) appeared to be generating substantial profit and cash flow, (b) could complement our Transportation segment and (c) if combined with our Transportation segment, could become a formidable, profitable competitor in the industry and would be large enough to help our company achieve overall profitability in the near term. Management brought this opportunity to the attention of our board at its September 24, 2003 meeting. With the approval of our board, we entered into a confidentiality agreement and began discussions about a potential acquisition of this company that would result in our Transportation segment becoming the focus of our ongoing operations. We conducted substantial due diligence during September 2003 and started negotiating the terms of a potential acquisition. Our first financial advisor assisted us in evaluating the financial aspects of the potential transaction. As a result of our due diligence, as well as our inability to reach agreement with the owners of this business about certain key pricing terms, we terminated our discussions regarding this potential acquisition on October 16, 2003.

By this time, the process conducted by our first financial advisor had resulted in only one ongoing discussion with a potential strategic buyer, which was interested in purchasing one of our other business segments. We were unable to reach a final agreement with this party, and all discussions were terminated in late November 2003.

At its November 14, 2003 meeting, our board of directors reviewed the results of the process conducted by our first financial advisor. In light of the absence of any concrete expressions of interest for the Transportation segment, the board directed management to focus its strategic efforts in the near term on our other two operating businesses.

Simultaneous with the process conducted by our first financial advisor, our management, with advice and assistance from our board, was actively exploring various additional strategic options to enhance stockholder value, including the possibility of beginning to pursue a strategy of building a leveraged portfolio of mortgage-backed securities. Our management also explored possible acquisitions of other businesses that were not related to our mobile and wireless data businesses but that had the potential to generate substantial taxable income and cash flow. Our management team initially concluded that the mortgage-backed securities option appeared to have the greatest promise. Management and several of our directors met with representatives of FBR, during the fall of 2003 to discuss the mortgage-backed securities strategy. At its November 14, 2003 meeting, the board and FBR discussed the benefits and drawbacks of this potential strategic option. Following the presentation, the board decided to hire an independent third-party to review and analyze the benefits and risks of this strategy.

In mid-November 2003, the CEO of TeleCommunication Systems, Inc., or TCS, contacted Mr. Oros to express interest in a possible acquisition of our Enterprise Mobility Systems segment. We entered into discussions with TCS, and as previously announced, signed a definitive agreement to sell the assets of our EMS segment to TCS on December 18, 2003. That sale closed in January 2004.

On December 16, 2003, we agreed with our first financial advisor to terminate the advisory relationship with them.

In late December 2003, a potential buyer of our Transportation segment contacted one of our independent consultants and, on an unsolicited basis, requested more information about the business, and during February 2004 we began negotiating terms for the sale of our Transportation segment with this potential purchaser.

At its February 5, 2004 telephonic meeting, the board reviewed with management the status of various strategic activities. Mr. Oros summarized the status of discussions with the potential buyer of the Transportation business. In addition, management reviewed the results of its discussions (undertaken at the board s request) with several investment banking firms and financial advisors to explore whether any of them had experience with managing mortgage-backed securities or could recommend an alternative strategy that would help us achieve profitability in the near term and realize value from the potential tax benefits of our accumulated net losses. Management reported that it had not yet identified any alternative strategies that it believed would be superior to the one proposed by FBR at the board s November 2003 meeting.

On February 25, 2004, we retained FBR as our financial advisor and investment banker to advise us in connection with the potential sale of our Transportation segment, as well as to assist us in exploring strategic options for the rest of our business.

At a March 10, 2004 meeting, the board of directors again discussed the status of the proposed sale of the Transportation segment. Proposed terms were reviewed in detail, FBR provided the board with a preliminary financial analysis of the potential transaction, and the Board authorized management to proceed with efforts to seek a definitive agreement for the sale of the Transportation segment, consistent with those that had been outlined to the board at the meeting.

On March 15, 2004, in light of the ongoing discussions about a potential sale of the Transportation segment, we disclosed in our 2003 Annual Report on Form 10-K that we were engaged in negotiations with a potential buyer of one of our business segments, but that we could not predict whether those negotiations would be successful. Shortly before the end of March, we determined that we could not reach agreement on several key terms, and the negotiations were terminated. The potential buyer contacted us again several times over the next few months, but each time it decided not to proceed with any further discussions.

In response to the announcement that we had engaged FBR to advise us on strategic options, as well as the information that had been included in our 2003 Annual Report on Form 10-K, potential buyers began to contact FBR and were expressing interest in our Transportation and Mobile Government segments. Consequently, in late March (following termination of discussions with the potential buyer of the Transportation segment) we asked FBR to organize a more formal process to explore these expressions of interest and determine if there might be additional interested buyers. Together with FBR, we prepared separate confidential information memoranda on our Transportation segment and our Mobile Government segment, and FBR began another competitive process to explore a possible sale of one or both of these businesses.

In this process, FBR contacted approximately 53 potential buyers for the Transportation segment. We entered into confidentiality agreements with approximately 45 parties and distributed the confidential information memoranda to them. Platinum Equity, was one of the parties that received the confidential information memorandum. Platinum Equity had entered into a confidentiality agreement with us on March 31, 2004.

During April, May and June, 12 potential buyers of the Transportation segment met with management at the offices of Kirkland & Ellis in Washington, D.C. At these presentations, Frank Briganti, President of our Transportation segment, together with Steven Bass, Senior Vice President-Finance, and representatives of FBR, discussed the Transportation segment s products, financial performance, customer base and supplier base. David Reymann, our Chief Financial Officer, also attended a number of these meetings.

On May 5, 2004, Messrs. Ari Silverman, Director of M&A, and other representatives of Platinum Equity, met with members of senior management and discussed the Transportation segment in detail. After this presentation, there were conference calls set up between representatives of Platinum Equity and managers and employees at Aether to discuss financial issues and technology questions.

Our board met again on May 5, 2004. Management reported on the status of the strategic process being managed by FBR and indicated that FBR planned to send our formal requests for expressions of interest within a week. Management also reported that, despite numerous discussions and meetings, it had not identified any strategic options that it considered superior to the mortgage-backed securities strategy that FBR had discussed with the board in November 2003. The board then received an analysis from an independent financial advisor of the proposed strategy to build a leveraged portfolio of mortgage-backed securities. The analysis was favorable, but the independent advisor recommended that management complete certain additional work before actually initiating the strategy. The additional work included identifying and retaining an independent firm that could assist management in developing policies for, and in monitoring, the mortgage-backed securities portfolio and leveraging activities. The board directed management to complete this additional work and to report back to the board.

On May 10, 2004, FBR sent out bid instructions to 12 interested parties. Representatives of FBR had discussions with these parties over the next two weeks, and between May 20 and May 27, 2004, we received indications of interest, but not final offers, from six potential buyers. We reviewed these indications with FBR, and after additional discussions with the potential buyers, we invited five of the potential buyers to continue with an intensive due diligence process. We selected the five continuing potential buyers based upon the proposed purchase price, financing terms, legal terms and our assessment of each potential buyer s ability to complete the transaction. Platinum Equity was one of these five potential buyers.

On May 25, 2004, potential buyers were given access to our on-line data room, which contained extensive documentation about our Transportation segment. They were encouraged to begin their final due diligence review of the Transportation segment. In addition, on May 26, 2004, we provided them with a draft asset purchase agreement and corresponding disclosure schedules that we had prepared with the assistance of Kirkland & Ellis. The draft agreement outlined the terms of a transaction that we would be prepared to consider, leaving blank the purchase price and certain other economic terms.

On May 25, 2004, our board met and among other things, reviewed the status of the sales process.

On June 3-4, 2004, representatives of Platinum Equity met with our management at our offices in Owings Mills, Maryland. At these meetings, Platinum Equity continued its due diligence and discussed the business, the customers, the sales and technology with members of our senior management and certain employees of the Transportation segment. Attorneys for Platinum Equity also spent time reviewing contracts in our offices.

On June 14, 2004, FBR requested that each of the potential buyers submit a formal offer, together with an asset purchase agreement that they would be prepared to sign, noting any changes to the draft agreement that we had provided to them. At or around this time, a party that had been approached during our initial strategic process in 2003 expressed renewed interest in acquiring the Transportation segment, and we entered into a new confidentiality agreement with them. After receiving the confidential information memorandum and obtaining access to our on-line data room, this party decided once again not to pursue a transaction with us. In addition, the potential purchaser of the Transportation segment that had ceased discussions with us in March 2003 contacted an independent consultant of ours and again expressed interest in acquiring that segment. After brief discussions, however, this party decided not to conduct additional due diligence and did not submit a new expression of interest.

On June 18, 2004, our board of directors met and, among other things, reviewed the status of the sales process.

By June 28, 2004, FBR had received formal offers for the Transportation segment from three of the five potential buyers that we had asked to continue in the process. Platinum Equity submitted its offer and a marked copy of the asset purchase agreement to FBR on June 18. Together with representatives of FBR and Kirkland & Ellis, we reviewed the terms of the three offers and proposed changes to the asset purchase agreement. FBR contacted the three potential buyers to gain further clarification of the terms of their offers. Representatives of FBR discussed Platinum Equity s offer with Mr. Silverman and advised him that in order to be competitive in the process, Platinum Equity would have to increase its purchase price and provide a revised mark-up of the asset purchase agreement that was more favorable to Aether. Mr. Silverman agreed to review the offer and submit a revised mark-up of the asset purchase agreement after completing additional due diligence.

Together with representatives of FBR, we continued discussions and due diligence activities with all three potential buyers. One of the parties was unable to provide us with credible evidence of available financing needed to complete a purchase of our Transportation segment. Accordingly, on July 19, 2004, we terminated discussions with that party. The second of the three potential buyers insisted on completing extensive discussions with, and visits to, many of our customers as a condition to entering into negotiations on a definitive agreement. Because of competitive concerns raised by this potential buyer s involvement in the transportation industry, we permitted only a limited number of customer calls to be made. This second potential buyer was unwilling to enter into further discussions with us unless we allowed broad access to our customers, and on July 15, 2004, they withdrew their offer and ended discussions with us.

Representatives of Platinum Equity conducted additional due diligence at our offices in Owings Mills and engaged in detailed discussions with members of our senior management team and our Transportation management team between June 29 and July 2, 2004 about various business subjects.

On July 7, 2004, Platinum Equity submitted a revised proposal, reducing the amount of its offer and modestly revising its mark-up of the draft agreement based on its confirmatory due diligence. Members of senior management (including Mr. Briganti) discussed the terms of the revised proposal with representatives of FBR and Kirkland & Ellis. We continued discussions with Platinum Equity on a non-exclusive basis.

On July 9, 2004, Mr. Silverman advised FBR that he and other representatives of Platinum Equity were prepared to travel from Los Angeles to Washington, D.C. to attempt to negotiate a definitive agreement. We discussed this with representatives of FBR and Kirkland & Ellis and concluded that it was advisable to proceed with Platinum Equity on a non-exclusive basis and enter into detailed negotiations.

Mr. Silverman, Jacob Kotzubei, Senior Vice President M&A, and other representatives of Platinum Equity, arrived at the offices of Kirkland & Ellis in Washington, D.C. on July 13, 2004. Mr. Bass, together with representatives of FBR and Kirkland & Ellis, held the discussions with the representatives of Platinum Equity, which continued through July 15, 2004. All economic and legal terms were discussed, and by the end of the day on July 15, the parties had agreed to the key terms of the definitive agreement but Aether had not accepted Platinum Equity s price and the parties had not agreed on the terms of a proposed post-closing net working capital adjustment, and certain aspects of the indemnification and termination provisions. The parties also worked to prepare revised and final disclosure schedules, which were largely agreed upon by July 15. In addition, Platinum Equity requested that Mr. Oros sign an agreement to vote his shares of our stock in favor of the transaction with Platinum Equity, and the terms of that agreement were negotiated.

On July 16, 2004, Mr. Bass discussed the remaining open economic terms with senior management, representatives of FBR and Kirkland & Ellis. During several meetings and discussions at the offices of Kirkland & Ellis on July 16, representatives of FBR and Kirkland & Ellis requested that Platinum Equity increase its purchase price and revise the proposed net working capital adjustment, indemnification terms and termination fee to be more favorable to Aether. After detailed discussions that continued into the early morning of July 17, the parties reached agreement on all terms. It was agreed that both sides would review the definitive agreement and make any final changes on July 19, 2004. Platinum Equity s representatives departed Washington, D.C. later in the morning of July 17.

In the evening of July 17, Mr. Bass contacted Mr. Silverman by telephone to address certain aspects of the post-closing net working capital adjustment. On July 18 and 19, members of our senior management participated in numerous telephone conversations with representatives of Platinum Equity, FBR and Kirkland & Ellis to resolve disagreements about the terms of the working capital adjustment. All disagreements were finally resolved on the morning of July 20, and we decided that we were prepared to recommend the transaction to our board of directors. During this time, Platinum Equity also completed its remaining due diligence.

On the evening of July 20, 2004, our board of directors held a telephonic meeting to discuss the sale of the Transportation segment to Platinum Equity. Management, along with representatives of FBR and Kirkland & Ellis, reviewed the proposed transaction and answered questions from the directors. The discussion addressed the terms of the proposed transaction, including contingent liabilities that we might incur in the future as a result of the negotiated terms of the deal and the conditions to closing of the proposed transaction. The board also reviewed the right that it had, under the negotiated terms of the proposed asset purchase agreement, to consider (and pursue) any unsolicited superior proposals that might be received for the Transportation segment. The directors also discussed the impact of the transaction on our continuing business operations and the possibility that we would be required to repurchase some or all of our outstanding 6% convertible subordinated notes following the closing of the transaction. Representatives of FBR reviewed the sale process, the various offers that had been made and the eventual withdrawal of the offers, and its financial analysis of the transaction with Platinum Equity, as discussed below under the heading Opinion of Financial Advisor beginning on page 21. FBR then presented to the directors its oral opinion, subsequently confirmed in writing, that as of the date and subject to the various qualifications and considerations set forth in its written opinion, the consideration to be paid to Aether in the proposed transaction was fair, from a financial point of view, to Aether. The terms of FBR s written opinion were discussed.

After a discussion of these matters and a review of the potential alternatives available to us, the directors unanimously approved the transaction, recommended that our stockholders approve it, and authorized our management to execute the definitive agreements with Platinum Equity. All parties signed the definitive agreements on the night of July 20, 2004, and we issued a press release before the markets opened on the morning of July 21, 2004 announcing the transaction.

SALE OF TRANSPORTATION SEGMENT

Reasons for the Sale of our Transportation Segment

In reaching its determination to approve the sale of our Transportation segment, the asset purchase agreement and related agreements, our board of directors consulted with our management and our financial and legal advisors. We are proposing to sell our Transportation segment to Slingshot because we believe that the sale and the terms of the asset purchase agreement are in the best interests of our company and you.

In reaching its determination to sell the Transportation segment, our board of directors considered the following:

Operating History and Financial Condition of the Transportation Segment

The Transportation segment has consistently operated at a loss, and if it is to become profitable as part of our business, it would need to cover not only its direct costs and expenses but also a portion of our corporate costs and expenses associated with being a public company.

Competition in the industry in which the Transportation segment operates is competitive, and some of our competitors have greater financial resources.

Based on the current and anticipated market for Transportation products, the Transportation segment will continue to require additional capital in order to grow and compete vigorously, and our ability to achieve a favorable return on such additional investment is highly uncertain, taking into account the Transportation segment s history of operating losses, including costs associated with being a public company.

We were unable to identify any suitable acquisition candidates in the industry in which the Transportation segment operates that we felt would help us become profitable in the near term.

Results of Our Extensive Strategic Evaluation Process

During the last two years, our board and senior management have considered a wide range of strategic options for our company, some of which involved retaining the Transportation segment and others of which involved selling the Transportation segment.

The strategic activities included an extended sales process to market the Transportation segment to over 80 potential purchasers through two separate competitive processes, conducted by two separate investment banks, in 2003 and 2004.

The uncertainty of an extended sales process has not been beneficial to our businesses, including the Transportation segment, and continuing a strategic process that subjects our businesses to further uncertainty was likely to be viewed negatively by our employees, customers and suppliers.

We conducted an extensive sales process and engaged in vigorous negotiations with those parties that expressed a serious interest on reasonable terms, including representatives of Platinum Equity. We believe that we obtained the highest purchase price that any of the bidders was willing to pay and the most favorable terms that we could negotiate.

After considering many strategic options, our management and our board concluded that building and managing a leveraged portfolio of mortgage-backed securities was the option that appeared more likely to enable us to achieve our key objectives of becoming profitable in the near term and enhancing the value of our assets (and particularly our significant accumulated net losses) than other options available to us. We felt that using the proceeds of the proposed sale of the Transportation segment to Slingshot to support the mortgage-backed securities business, rather than continuing to invest in the Transportation segment, would better serve the interests of our stockholders and be more consistent with accomplishing our business objectives.

Benefits of the Sale

The sale of our Transportation segment will:

- allow us to direct substantially all of our financial resources to expanding our investment strategy of building and managing a leveraged portfolio of mortgage-backed securities;
- reduce the net cash used in the operation of our business. For the fiscal year 2003 and for the six months ended June 30, 2004, the net cash used by the Transportation segment was approximately $8.2 million and $5.9 million, respectively;
- provide us with an improved organizational focus by permitting management to direct the mortgage-backed securities investment strategy; and
- provide us with additional equity capital to invest in mortgage-backed securities.

In arriving at its determination that the sale of our Transportation segment to Slingshot is in the best interests of our company and our stockholders, the board of directors carefully considered the terms of the asset purchase agreement as well as the potential impact of the proposed sale on our company. As part of this process, the board of directors considered the advice and assistance of its outside financial advisors and legal counsel. In determining to authorize the proposed sale, the board of directors considered the benefits and factors set forth above as well as the following:

- the oral opinion provided to our board of directors on July 20, 2004, which was subsequently confirmed in writing by an opinion letter dated as of July 20, 2004 from FBR, our financial advisor, that the consideration to be paid to us in the transaction is fair, from a financial point of view, to us;
- the terms and conditions of the asset purchase agreement, including a provision which allows our board to consider unsolicited offers to purchase the Transportation segment that are superior to Slingshot s offer, and to accept a superior offer, subject to Slingshot s right to match (or beat) any such superior offer and our obligation to pay Slingshot a termination fee in the amount not greater than $1.25 million if we decide to pursue a transaction with a party other than Slingshot; and
- the fact that the asset purchase agreement did not contain any financing contingency or due diligence conditions.

Our board also considered numerous potential risks associated with engaging in the proposed sale as well as failing to engage in the proposed sale, as further described below under the heading Risk Factors, which begins on page 32. You should carefully consider all of these risks before deciding how to vote on the proposed sale of assets.

As discussed more fully beginning on page 32, these risks include the following.

- The transaction may not be completed due to the failure to satisfy or waive conditions to closing.
- If the proposed sale is not consummated for any reason, the revenues and income of our Transportation segment, as well as the value of our common stock, could be adversely affected because of the potential for a loss of customers, suppliers and employees and other negative factors due to potential confusion or concern over the failure to consummate the transaction and our future intentions with respect to the Transportation segment.
- Our inability under the terms of the asset purchase agreement to solicit other acquisition proposals, and the possibility that we may be required to pay Slingshot a termination fee if we were to terminate the asset purchase agreement to accept a superior proposal, may discourage other parties from proposing to purchase our Transportation segment or make it unlikely that we will receive additional proposals.

The amount of the purchase price we receive in the transaction may vary, depending on some future contingencies, including the amount of net working capital at closing and liabilities for our indemnification obligations for breaches of our representations, warranties and covenants in the asset purchase agreement, so it is possible we may not receive all of the cash provided for in the asset purchase agreement.

If the proposed sale is not completed, we may not be able to invest in our strategy of building and managing a leveraged portfolio of mortgage-backed securities, and this may adversely affect our ability to achieve our objectives of becoming profitable in the near term and enhancing the value of our assets to our stockholders.

The foregoing discussion of the information and factors considered by our board of directors is not intended to be exhaustive, but does include the material factors considered. In view of the complexity and wide variety of information and factors, both positive and negative, considered by the board, it is not practical to quantify, rank or otherwise assign relative or specific weights to the factors considered. In addition, the board did not reach any specific conclusion with respect to each of the factors considered, or any aspect of any particular factor. Instead, the board conducted an overall analysis of the factors described above, including discussions with management and legal and financial advisors. In considering the factors described above, individual members of the board may have given different weight to different factors. The board considered all of these factors in totality and concluded, on the whole, such factors supported its determination to approve the proposed sale of our Transportation segment. After taking into consideration all of the factors set forth above, our board of directors, following consultation with its legal and financial advisors, concluded that the proposed sale is fair to, and in the best interests of, our company and our stockholders, and that we should proceed with the sale.

Recommendation of the Board of Directors

The board of directors has determined that the proposed sale of our Transportation segment is fair to, and in the best interests of, our company and our stockholders. **The board of directors unanimously approved the asset purchase agreement and the sale contemplated by it and unanimously recommends that the stockholders vote in favor of the proposal to sell the assets of our Transportation segment pursuant to the asset purchase agreement.**

Opinion of Financial Advisor

Pursuant to an engagement letter dated February 25, 2004, as amended and restated on May 18, 2004, Aether retained Friedman, Billings, Ramsey & Co., Inc., or FBR, as its financial advisor in connection with the proposed sale of the transportation division.

At the meeting of the board of directors of Aether on July 20, 2004, FBR rendered its oral opinion to the board of directors, subsequently confirmed in writing, that, as of such date and based upon and subject to the various qualifications and considerations set forth in the opinion, the consideration to be paid to Aether in the proposed transaction was fair, from a financial point of view, to Aether. No limitations or other instructions were imposed by Aether s board of directors upon FBR with respect to the investigations made or procedures followed by it in rendering its opinion.

The full text of the written opinion of FBR dated July 20, 2004, which sets forth the assumptions made, procedures followed, matters considered and limits on the scope of the review undertaken by FBR, is attached as Appendix B to this proxy statement and is incorporated herein by reference. We urge you to read the opinion in its entirety. FBR s written opinion, which is addressed to the board of directors of Aether, is directed only to the fairness of the cash consideration, from a financial point of view, to be received by Aether pursuant to the asset purchase agreement as of the date of the opinion. It does not address any other aspect of the proposed transaction, nor does it constitute a recommendation as to how you should vote at the special meeting. The summary of the opinion of FBR set forth in this proxy statement is qualified in its entirety by reference to the full text of such opinion.

In arriving at its opinion, FBR, among other things:

1. reviewed the draft asset purchase agreement dated July 20, 2004 and its financial terms and conditions;

2. reviewed Aether s annual report on Form 10-K for the year ended December 31, 2003 and Aether s quarterly report on Form 10-Q for the period ended March 31, 2004, as well as the current reports filed on Form 8-K since January 1, 2004;

3. reviewed certain other publicly available business and financial information of Platinum Equity, Aether and the transportation division;

4. reviewed certain internal financial statements and other financial and operating data of Aether and the Transportation segment, including certain financial forecasts and other forward-looking financial information concerning the Transportation segment, prepared and furnished to FBR by us;

5. held discussions with our senior management and senior management of the Transportation segment and our advisors and legal counsel concerning the transaction, as well as the business, past and current operations, financial condition and future prospects of the Transportation segment;

6. compared the financial performance of the Transportation segment with that of certain other public companies FBR deemed comparable to the Transportation segment and whose securities are traded in public markets;

7. compared the financial terms of the proposed sale with the financial terms, to the extent publicly available, of other announced and completed transactions that FBR deemed relevant;

8. reviewed general industry information for the communications, data communications and technology industries in which Aether and the Transportation segment operate;

9. prepared a discounted cash flow analysis of the Transportation segment;

10. reviewed the financial and operating performance, customer data and projected trends for the data communications and technology industries, in which the Transportation segment operates and is, in part, affected by;

11. held discussions with our senior management and senior management of the Transportation segment regarding the business lines, customers and operations of the transportation division; and

12. made such other studies and inquiries, and reviewed such other data, as FBR deemed relevant.

FBR assumed and relied, without independent verification, upon the accuracy and completeness of all information reviewed by it for the purposes of its opinion. With regard to the information provided to FBR by Aether, FBR assumed (and FBR was assured by our senior management team) that all such information is complete and accurate in all material respects and FBR has assumed there are no (and FBR has been assured by our senior management team that we are unaware of) any facts or circumstances that would make such information incomplete, inaccurate or misleading. With respect to the financial projections provided to FBR by Aether, FBR assumed that such projections were prepared in good faith on reasonable bases reflecting management s current best estimates and judgments of the transportation division s future financial performance. FBR s opinion was based substantially upon the financial projections and estimates described above. Further, without limiting the foregoing, FBR has assumed, without independent verification, that the historical and projected financial information provided to FBR by Aether accurately reflects the historical and projected operations of Aether and the Transportation segment. FBR further assumed that the draft asset purchase agreement furnished to it was identical in all material respects to the definitive asset purchase agreement executed in connection with the transaction and that the transaction will be consummated in accordance with the terms of the asset

purchase agreement including that in all respects material to FBR s analysis, the representations and warranties made by the parties to the asset purchase agreement are true and accurate.

FBR has not made an independent evaluation or appraisal of the assets or liabilities of the Transportation segment or Aether, and FBR was not furnished with any such evaluation or appraisal. In addition, FBR did not make an independent evaluation or appraisal of the Transportation segment, Aether or Platinum Equity after the transaction and accordingly expressed no opinion as to the future prospects, plans or viability of the Transportation segment, Aether or Platinum Equity after the transaction. FBR s opinion is based on market, economic, financial and other circumstances and conditions as they exist and can only be evaluated as of the date of the opinion, and any material change in such circumstances and conditions would require a reevaluation of FBR s opinion, which FBR is under no obligation to undertake.

FBR expressed no opinion as to the underlying business decision of Aether to effect the proposed sale, the structure, or accounting treatment or tax consequences of the asset purchase agreement or the availability or the advisability of any alternatives to the transaction. FBR did not structure the transaction. Further, FBR expressed no opinion as to the value of Aether common stock upon the consummation of the transaction or the price at which Aether common stock will trade at any time. FBR s opinion is limited to the fairness, from a financial point of view, of the consideration to be paid to Aether in the proposed sale. FBR expressed no opinion with respect to any other reasons, legal, business, or otherwise, that may support the decision of our board of directors to approve or consummate the proposed sale.

The following represents a brief summary of the material financial analyses performed by FBR in connection with providing its opinion to our board of directors. The value of the consideration payable by Slingshot to Aether in the transaction is $25 million. Some of the summaries of financial analyses performed by FBR include information presented in tabular format. In order to fully understand the financial analyses performed by FBR, the tables should be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses.

Comparable Company Analysis

In performing a comparable company analysis, FBR examined public companies it considered to have characteristics reasonably similar to the Transportation segment, either in terms of the industry group, business model and/or financial and operational characteristics. While no company was identified as having exactly the same risks, financial and operating characteristics, relevant markets and customer and other comparable factors as the Transportation segment, companies with similar business characteristics, including the type of services offered, service lines, markets, distribution channels, customer bases, growth prospects or operating strategies were identified. The comparable companies FBR analyzed included:

@Road Inc.

Trimble Navigation Ltd

TeleCommunication Systems, Inc.

Comtech Telecommunications Corp.

Descartes Systems Group Inc.

In performing its analysis, FBR made certain judgments and assumptions, many of which are beyond the control of Aether and the Transportation segment, such as the impact of competition on the Transportation segment or the industry generally, industry growth, and the absence of any material adverse change in the financial condition and prospects the Transportation segment, the industry or the financial markets in general.

All the projected financial information for the Transportation segment used in the comparable company analysis was based on projections provided by Aether. All the projected financial data for the comparable companies used in the comparable company analysis were obtained from published Wall Street research analysts reports and forecasts and other publicly available third party sources.

Enterprise Value to Revenue Analysis

FBR compared enterprise value as a multiple of projected revenue for the calendar years ended December 31, 2004 and 2005 for the comparable companies. FBR then applied the enterprise value to revenue multiples of the comparable group to the projected Transportation segment revenue to derive a range of implied enterprise values for the Transportation segment. The following table sets forth the implied range of enterprise values indicated by this analysis:

	CY2004E		CY2005E	
	Low	High	Low	High
Implied Transportation Segment Enterprise Value	$ 10.0 million	$ 113.3 million	$ 12.1 million	$ 108.4 million

FBR observed that the $25 million cash consideration being paid under the asset purchase agreement is within the range of low and high implied enterprise values for the Transportation segment based on the comparable group.

Enterprise Value to EBITDA Analysis

FBR compared enterprise value as a multiple of projected earnings before interest, taxes, depreciation and amortization, or EBITDA, for the calendar years ended December 31, 2004 and 2005 for the comparable companies. FBR then applied the enterprise value to EBITDA multiples of the comparable group to the projected Transportation segment revenue to derive a range of implied enterprise values for the Transportation segment. The following table sets forth the implied range of enterprise values indicated by this analysis:

	CY2004E		CY2005E	
	Low	High	Low	High
Implied Transportation Segment Enterprise Value	Not Meaningful	Not Meaningful	$ 3.7 million	$ 12.9 million

FBR noted that the implied enterprise value in 2004 is not meaningful because the Transportation segment is projected to generate negative EBITDA for 2004. FBR observed that the $25 million cash consideration being paid under the asset purchase agreement is greater than the high 2005 implied enterprise value obtained from the comparable group.

Price to Earnings Analysis

FBR compared stock price as a multiple of projected earnings per share for the calendar years ended December 31, 2004 and 2005 for the comparable companies. FBR then applied the price to earnings multiples of the comparable group to the projected Transportation segment earnings to derive a range of implied equity values for the Transportation segment. The following table sets forth the implied range of equity values indicated by this analysis:

CY2004E		CY2005E	
Low	High	Low	High
Not Meaningful	Not Meaningful	$ 11.5 million	$ 25.7 million

Implied Transportation Segment Equity Value

FBR noted that the implied equity value in 2004 is not meaningful because the Transportation segment is projected to generate negative net earnings for 2004. FBR observed that the $25 million cash consideration being paid under the asset purchase agreement is within the range of low and high 2005 implied equity values for the Transportation segment based on the comparable group.

FBR noted that the comparable company analysis was just one of several analyses used by FBR to reach its fairness determination. No company or business utilized in the comparable company analysis is

identical to the Transportation segment. Accordingly, an analysis of the foregoing involves complex considerations and judgments concerning differences in financial and operating characteristics and other factors that could affect the acquisition, public trading and other values of comparable companies or the business segment or company to which they are being compared.

Comparable Transactions Analysis

Using publicly available information, FBR reviewed the terms of certain announced, pending or completed merger and acquisition transactions and compared relevant operating and valuation metrics for these transactions to similar operating and valuation metrics of the Transportation segment.

In performing its analysis, FBR selected transactions that have been announced since January 1, 2002 and completed in the last two years, in which the target entity had an enterprise value or total consideration ranging from $5 million to $100 million and that involved one of the following criteria: (i) the transactions involved target businesses in the wireless data industry, communications services industry, enterprise software industry or supply chain services industry referred to as the industry transactions, or (ii) the transactions involved an asset purchase for cash consideration referred to as the asset purchase transactions. In each case, FBR used estimates based on public filings, news articles, published Wall Street research analysts reports and forecasts and other publicly available third party sources.

Industry Transaction Analysis

FBR reviewed the financial terms, to the extent publicly available, of the following industry transactions:

Announcement Date	Name of Acquirer	Name of Target
1/02/04	Retalix Ltd	OMI International, Inc.
9/15/03	Pumatech Inc	Synchrologic Inc.
11/19/03	Metrocal Holdings Inc.	Weblink Wireless, Inc.
6/5/03	Battery Ventures	Made2Manage Systems Inc.
12/20/02	Sybase, Inc.	AvantGo, Inc.
8/14/02	Symbol Technologies Inc.	@pos.com, Inc.

For each acquired entity in the industry transaction analysis, FBR analyzed the total consideration relative to the trailing twelve months revenues for the twelve-month period preceding the announcement date of the proposed sale. The following table sets forth the implied range of consideration values for the Transportation segment indicated by this analysis:

	Low	High
Implied Transportation Segment Consideration Value	$ 3.9 million	$ 172.5 million

FBR observed that the $25 million cash consideration paid under the asset purchase agreement is within the range of the implied consideration based on the comparable Industry Transactions.

Asset Purchase Transaction Analysis

FBR reviewed the financial terms, to the extent publicly available, of the following asset purchase transactions:

Announcement Date	Name of Acquirer	Name of Target
1/29/04	JDA Software Group Inc.	Timera Retail Solutions
1/5/04	Cranes Software International Ltd.	SPSS Inc.
12/19/03	TeleCommunication Systems	Aether Systems
4/16/03	Group 1 Software Inc.	SAGENT Technology Inc.
7/30/03	Tecnomatix Technologies	US Data Corporation
2/26/03	Witness Systems Inc.	Eyretel Plc
12/9/02	Certegy Inc.	Netzee Inc.

For each acquired entity in the asset purchase transaction analysis, FBR analyzed the total consideration relative to the trailing twelve months revenues for the twelve-month period preceding the announcement date of the transaction. The following table sets forth the implied range of consideration values for the Transportation segment indicated by this analysis:

	Low	High
Implied Transportation Segment Consideration Value	$ 12.4 million	$ 71.5 million

FBR observed that the $25 million cash consideration being paid under the asset purchase agreement is within the range of the implied consideration based on the comparable asset purchase transactions.

FBR noted that the comparable transaction analysis was just one of several analyses used by FBR to reach its fairness determination. No company, business or transaction utilized in the comparable transaction analysis is identical to the Transportation segment or the transaction. Accordingly, an analysis of the foregoing involves complex considerations and judgments concerning differences in financial and operating characteristics and other factors that could affect the acquisition, public trading and other values of comparable companies, precedent transactions or the business segment, company or transactions to which they are being compared.

Discounted Cash Flow Analysis

FBR performed a discounted cash flow analysis for the Transportation segment in which it calculated the present value of the projected future free cash flows (less current net debt) of the Transportation segment. The Transportation segment is a division of Aether and has neither cash nor long-term debt on its balance sheet, resulting in an equity value produced by the discounted cash flow analysis approximately equal to the Transportation segment s enterprise value. FBR analyzed financial projections provided by Aether to conduct the discounted cash flow analysis. FBR estimated a range of theoretical values for the Transportation segment based on the sum of the net present value of the Transportation segment s implied annual cash flows through 2007 plus a terminal value for the Transportation segment in 2007, which was calculated based on a multiple of projected revenue. FBR applied a range of discount rates from 20% to 30% and a range of terminal revenue multiples from 0.90x to 1.10x of forecasted fiscal 2007 free cash flow. The following table sets forth the implied range of equity values for the Transportation segment indicated by this analysis:

	Low	High
Implied Transportation Segment Equity Value	$ 48.1 million	$ 69.9 million

FBR observed that the $25 million cash consideration being paid under the asset purchase agreement fell below the range of implied equity values based on the discounted cash flow analysis. FBR noted that, for reasons previously stated above, discounted cash flow analysis was just one of several analyses used by FBR to reach its fairness determination.

Other Considerations

The preparation of a fairness opinion is a complex process that involves the application of subjective business judgment in determining the most appropriate and relevant methods of financial analysis and the application of those methods to the particular circumstances and, therefore, is not necessarily susceptible to partial consideration of the analyses or summary description. FBR believes that its analyses must be considered as a whole and that selecting certain portions of the analyses and of the factors considered, without keeping them in the proper context of full information, would create an incomplete or misleading view of the processes underlying its opinion.

In view of the wide variety of factors considered in connection with its evaluation of the fairness of the consideration to be paid, from a financial point of view, to Aether, FBR did not find it practicable to assign relative weights to the factors considered in reaching its opinion. No single company or transaction used in the above analyses as a comparison was identical to the Transportation segment nor was any transaction identical to the proposed transaction. The analyses were prepared solely to provide information upon which FBR could render an opinion as to whether or not the consideration to be paid to Aether in the transaction was fair, from a financial point of view, to Aether. The analyses performed by FBR are not intended to be appraisals or to reflect the prices at which businesses or securities actually may be sold in different circumstances.

In connection with its analyses, FBR made, based on information provided by Aether, numerous assumptions with respect to industry performance, general business and economic conditions and other matters, many of which are beyond Aether s control. Analyses based upon forecasts of future results are not necessarily indicative of actual future results, which may be significantly more or less favorable than suggested by these analyses. Because these analyses are inherently subject to uncertainty, and are based upon numerous factors or events beyond the control of Aether, Platinum Equity and Slingshot, or their advisors, none of Aether, Platinum Equity, Slingshot, FBR, or any other person assumes responsibility if future results or actual values are materially different from these forecasts or assumptions.

The consideration payable in the proposed sale was determined through negotiation between Aether and Platinum Equity and the decision to enter into the asset purchase agreement was solely that of Aether s board of directors. FBR provided advice to Aether during these negotiations, but did not recommend any specific amount of consideration to Aether. FBR also did not recommend that any specific amount of consideration constituted the only appropriate amount of consideration for the proposed sale. FBR s opinion was one of the factors taken into consideration by our board of directors in making its determination to engage in the proposed sale. Consequently, the analyses described above should not be viewed as determinative of the opinion of our board of directors or our management with respect to the value of the Transportation segment or whether our board of directors would have been willing to agree to different consideration.

FBR is a nationally recognized investment banking firm and, as part of its investment banking activities, is regularly engaged in the valuation of businesses and their securities in connection with mergers, acquisitions, underwritings, sales and distributions of listed and unlisted securities, private placements and valuations for corporate and other purposes. FBR was selected by Aether because of its expertise, reputation and qualifications, and because its investment banking professionals have substantial experience in transactions comparable to this transaction.

As compensation for its services in connection with the transaction, Aether has paid FBR a retainer fee of $100,000 and will pay FBR an advisory fee equal to $1 million in consideration for FBR s services as financial advisor in connection with the transaction. The retainer fee will be offset against the advisory fee. The advisory fee is payable in two installments as follows: (i) 25% of such advisory fee was payable upon signing of a definitive agreement, and (ii) 75% of such advisory fee is payable upon closing of the proposed sale of the Transportation segment. In addition, Aether has agreed to reimburse FBR for reasonable out of pocket expenses, and indemnify FBR against certain liabilities arising out of FBR s engagement.

FBR s research department currently provides research coverage regarding securities issued by Aether. In addition, FBR maintains a market in the shares of Aether s common stock. In the ordinary course of business, FBR may trade in Aether s securities for its own account and the accounts of its customers and, accordingly, may at any time hold a long or short position in the securities of Aether. Furthermore, FBR may have a beneficial ownership interest in investment funds that invest in the securities of Aether. FBR is currently providing financial advisory and investment banking services to Aether, and has in the past provided financial advisory and investment banking services to Aether. Aether paid FBR an aggregate of $400,000 for financial advisory and investment banking services performed in February and March 2004 unrelated to this transaction. An affiliate of FBR has also entered into an investment advisory agreement with Aether to provide asset management services and receives compensation based on the size and performance of Aether s mortgage-backed securities portfolio. FBR or one of its affiliates may in the future provide financial advisory and/or investment banking services to Aether or Platinum Equity for which FBR would receive customary fees.

OTHER CONSIDERATIONS

Principal Stockholders Agreement

Mr. Oros, our Chairman and Chief Executive Officer, NexGen Technologies, L.L.C. and Slingshot entered into a principal stockholder agreement concurrently with our execution of the asset purchase agreement. As of July 20, 2004, Mr. Oros beneficially owned, directly and through NexGen Technologies, 4,518,043 shares of Aether s common stock, which represented approximately 10.4% percent of our outstanding shares of our capital stock.

The following description summarizes the provisions of the principal stockholder agreement and is qualified in its entirety by reference to the complete text of the principal stockholder agreement attached as Appendix C to this proxy statement. This summary does not purport to describe all the terms of the principal stockholder agreement. We urge you to read carefully the entire principal stockholder agreement for its terms and other information that may be important to you.

Pursuant to the terms of the principal stockholder agreement, Mr. Oros has agreed to:

vote his shares of Aether common stock in favor of the approval of the proposed sale of assets and the adoption of the asset purchase agreement at the special meeting. and against any acquisition proposal and any other action that may reasonably be expected to impede, interfere with, delay, postpone, attempt to discourage or have a material adverse effect on the consummation of, the sale of assets contemplated by the asset purchase agreement;

if requested, execute (and not revoke) a proxy in favor of Slingshot to vote his shares of Aether common stock in favor of the approval of the sale of our Transportation segment and the adoption of the asset purchase agreement at the special meeting; or

if requested, execute a written consent approving the sale of assets and adopting the asset purchase agreement.

The principal stockholder agreement will terminate:

automatically at the earlier of the closing or the termination of the asset purchase agreement or

if our stockholders do not approve the proposed sale of our Transportation segment.

Mr. Oros did not receive any consideration for entering into the principal stockholders agreement.

Ancillary Agreements

The parties will enter into mutually agreeable arrangements to provide Slingshot with transition services that are provided by Aether to the Transportation segment and to provide Slingshot with rights to certain intellectual property necessary to operate the Transportation segment after the closing through a transition services agreement, deal license agreement, patent assignment, copyright assignment and trademark assignment.

Interests of Directors and Executive Officers in the Sale of Assets

In considering the recommendation of our board of directors with respect to the asset purchase agreement, you should be aware that certain of our directors and executive officers have interests in the sale of assets that are in addition to, or different from, the interests of our stockholders generally and that create potential conflicts of interest. These interests are described below:

Mr. Oros, our Chairman and Chief Executive Officer, has entered into a voting agreement as discussed above;

pursuant to his employment agreement, Frank Briganti, President of the Transportation segment, will receive a bonus equal to 0.5% of the purchase price received by Aether under the asset purchase agreement, or approximately $125,000; and

10,125 options to purchase our common stock will vest and the forfeiture provisions applicable to 3,333 restricted shares of our common stock held by Mr. Briganti will lapse upon the closing of the proposed sale of our Transportation segment.

As of August 4, 2004, our directors and executive officers owned of record 6,388,175 shares of our outstanding common stock, representing approximately 14% of the outstanding votes of common stock. The vote of holders of a majority of the shares of Aether s common stock outstanding on the record date is required to approve the asset purchase agreement.

Guarantee and Funding

The Fund has absolutely and unconditionally guaranteed the payment and performance of all of the obligations of Slingshot under the asset purchase agreement. The Fund has agreed to provide Slingshot with up to 100% of the necessary funding to enable Slingshot to pay the purchase price under the asset purchase agreement and has represented to us that it has undrawn commitments from its limited partners to enable it to satisfy its obligations under the asset purchase agreement. If Slingshot defaults in the payment or performance of any of its obligations under the asset purchase agreement, the Fund has agreed to perform such obligations. The Fund s guarantee will survive termination of the asset purchase agreement if the asset purchase agreement is terminated because of a material breach of a representation or covenant or is terminated by Slingshot in breach of the terms of the asset purchase agreement. If the sale of assets is completed, the Fund s guarantee obligations shall terminate at the closing.

Appraisal Rights

Neither Delaware law, our certificate of incorporation nor our Bylaws provide for appraisal or other similar rights for stockholders who do not vote in favor of, or vote against, the sale of our Transportation segment.

Required Approvals

Neither we nor Slingshot are aware of any regulatory requirements or governmental approvals or actions that may be required to consummate the sale of our Transportation segment, except for compliance with the applicable regulations of the Securities and Exchange Commission in connection with this proxy statement and the Delaware General Corporation Law in connection with the stockholder approval being requested at the special meeting for which this proxy statement has been prepared.

Accounting Treatment

The proposed sale of our Transportation segment will be accounted for as a sale of net assets. During the three months ended June 30, 2004, we recognized an impairment loss of $26.6 million related to goodwill and certain other long-lived assets based upon the value implied by the negotiated sale price for the business. Accordingly, we believe, but cannot be certain, that further gains or losses upon consummation of the sale will not be material. If the stockholders approve the sale of the Transportation segment, the historical and future financial results of the Transportation segment will be reported as results of discontinued operations in our statements of operations. As a result of our recent agreement to sell our Mobile Government segment to BIO-key International, Inc., we expect that we will reclassify the historical and future results of the Mobile Government business to discontinued operations in the third quarter.

6% Convertible Subordinated Notes

The indenture governing our 6% senior convertible subordinated notes requires that we offer to repurchase the notes in the event of the sale of substantially all of our assets within 45 business days of the closing of the proposed sale. We have decided to treat the sale of our Transportation segment as a sale of substantially all of our assets for purposes of the indenture. As a result, the holders of our 6% convertible subordinated notes will have the right to require us to repurchase their outstanding notes for the principal amount outstanding *plus* accrued and unpaid interest to the date of repurchase. We will

repurchase the notes of holders who properly exercise the repurchase right in accordance with the terms of the notes. If the proposed sale closes on September 30, 2004 and all of the holders of the notes exercise their right to require us to repurchase the notes, we estimate that we would pay approximately $159.8 million to repurchase the notes.

In lieu of making this repurchase offer, we are considering redeeming our 6% senior subordinated notes in accordance with the terms of the indenture for a price of 101.2% of the principal amount of each outstanding note *plus* accrued interest up to the redemption date. If we were to redeem the notes as of September 30, 2004, we estimate that we would pay approximately $161.6 million to redeem the notes, and we would incur a charge to earnings of approximately $2.4 million comprised of $1.8 million attributable to the premium payable on the redemption and $0.6 million of deferred financing costs. Any decision to redeem the notes must be approved by our board of directors.

Mobile Government

On August 16, 2004, we announced that we entered into a definitive agreement to sell our Mobile Government segment to BIO-Key International, Inc. for $10 million in cash. Whether or not the proposed sale of our Transportation segment is approved by holders of a majority of our outstanding shares of common stock and then completed, we do not anticipate that we will seek additional stockholder approval for the sale of our Mobile Government segment.

Tax Consequences

The following is a summary of the principal material United States federal income tax consequences relating to the proposed sale of our Transportation segment.

The proposed sale of our Transportation segment will be a transaction taxable to us for United States federal income tax purposes. We will recognize taxable income equal to the amount realized on the sale in excess of our tax basis in the assets sold. The amount realized on the sale will consist of the cash we receive in exchange for the assets sold, plus the amount of related liabilities assumed by Slingshot. Although the sale of our Transportation segment will result in a taxable gain to us, substantially all of the taxable gain will be offset against our current year losses from operations plus available net operating loss carry forwards, as currently reflected on our consolidated federal income tax returns.

The proposed sale of our Transportation segment will not be a taxable event for our stockholders under applicable United States federal income tax laws.

This summary does not consider the effect of any applicable foreign, state, local or other tax laws nor does it address tax consequences applicable to stockholders that may be subject to special federal income tax rules. This summary is based on the current provisions of the Internal Revenue Code, existing, temporary, and proposed Treasury regulations thereunder, and current administrative rulings and court decisions. Future legislative, judicial or administrative actions or decisions, which may be retroactive in effect, may affect the accuracy of any statements in this summary with respect to the transactions entered into or contemplated prior to the effective date of those changes.

RISK FACTORS

You should carefully consider the risk factors described below as well as other information provided to you in this proxy statement in deciding how to vote on the proposal to sell our Transportation segment. If any of the following risk factors actually occur, our business, financial condition or results of operations could be materially adversely affected.

Risk Factors Regarding the Proposal to Sell Our Transportation Segment

The proposed sale may not be completed if the conditions to closing are not satisfied or waived.

The proposed sale of our Transportation segment may not be completed because the conditions to closing, including our ability to obtain stockholder approval and required consents from third parties such as landlords and parties to important contracts, may not be satisfied or waived. If the transaction is not completed, it is possible we will have difficulty recouping the costs incurred in connection with negotiating the proposed transaction, and our business may be seriously harmed.

We may not receive all of the cash purchase price provided for in the asset purchase agreement, and accordingly, we may have less cash to fund our remaining operations and to invest in a leveraged portfolio of mortgage-backed securities.

Pursuant to the asset purchase agreement, if our net working capital as of the closing date is less than approximately $27.6 million, the amount of the purchase price we will receive will be reduced dollar for dollar. In the event that the purchase price is reduced because the closing net working capital is less than approximately $27.6 million, we will have less cash resources to invest in our mortgage-backed securities investment strategy.

The asset purchase agreement will expose us to contingent liabilities up to an amount equal to the purchase price which could adversely affect our ability to invest in a leveraged portfolio of mortgage-backed securities.

In the asset purchase agreement we have made customary representations and warranties, which are described below under the heading Summary of Material Terms of the Asset Purchase Agreement Representations and Warranties. We agreed to indemnify Slingshot for any losses from breaches of most of our representations and warranties that occur within 18 months after the closing date of the proposed sale. Our indemnification obligation for a breach of representations and warranties relating to:

- organization and good standing
- authorization
- title to property, and
- broker s fees

survive the closing indefinitely.

Our representations and warranties relating to:

- employee benefit plans
- taxes, and
- environmental matters

survive until the expiration of the shortest applicable statute of limitations (or if none, three years).

Our aggregate indemnification obligations for breaches of representations and warranties relating to the sufficiency of assets we are selling to Slingshot to operate the Transportation segment, as well as those representations and warranties listed above, are limited to an amount equal to the purchase price. Our aggregate indemnification obligations for all other breaches of representations and warranties are limited to

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$10 million. The payment of any such indemnification obligations could adversely impact our cash resources following the completion of the sale.

If the proposed sale is not completed, we may explore other potential transactions, but alternatives may be less favorable to us.

If the proposed sale is not completed, we may explore other strategic alternatives, including a sale of the assets of our Transportation segment to, or a business combination with, another party. An alternative transaction may have terms that are less favorable to us than the terms of the proposed sale, or we may be unable to reach agreement with any third party on an alternative transaction that we would consider to be reasonable.

If the proposed sale is not approved, continued operation of our Transportation segment may result in us incurring additional operating losses and additional funding requirements.

If our stockholders do not approve the proposed sale, we will continue to operate our Transportation segment unless and until we are able to negotiate another transaction that our board of directors believes is in the best interest of our company and our stockholders. Continued operation of the Transportation segment may result in our sustaining further operating losses and consuming additional amounts of cash to support the operation of the business and the costs of operating that business as part of a public company. We also may be required to fund additional investments in the Transportation segment to enable it to compete effectively with other companies in the future.

The failure to complete the proposed sale may result in a decrease in the market value of our common stock and may impair our ability to achieve our objectives of becoming profitable as quickly as possible and enhancing the value of our assets to our stockholders.

If our stockholders fail to approve the proposed sale, or if the proposed sale is not completed for any other reason, the market price of our common stock may decline. In addition, failure to complete the proposed sale may substantially limit our ability to implement our strategy to invest in a leveraged portfolio of mortgage-backed securities.

Risk Factors Relating to Our Company if Our Transportation Segment is Sold

By completing the proposed sale, we will be selling the assets that generate most of our revenue.

By selling our Transportation segment, we will be selling the business that generates our most significant source of revenue. Our only remaining operating business will be our Mobile Government segment, which we have agreed to sell to BIO-key International, Inc., and it has not generated sufficient profits to cover both its own direct costs and expenses and the corporate costs and expenses that we must incur to operate as a public company. Although we have entered into a definitive agreement to sell our Mobile Government business to BIO-key International, Inc., there can be no assurance that we will be able to complete that sale. If we are unable to complete the sale of the Mobile Government segment, we may have to make additional changes to our business strategy, such us reducing the expected scope of our mortgage-backed securities activities or pursuing other additional strategic alternatives.

Our business following the asset sale will depend primarily on the success of our mortgage-backed securities investment strategy.

Our mortgage-backed securities investment strategy will be our largest business after the sale of our Transportation segment, and our business will be dependent on the success of this strategy. Our Mobile Government segment, which we have agreed to sell to BIO-key International, Inc., generated total revenues of $20.9 million in 2003, and it has generated total revenues of $9.5 million through the first six months of 2004. Our mortgage-backed securities investment strategy is in its earliest stages, having been initiated only in late June 2004.

If the risks associated with our mortgage-backed securities investment strategy previously disclosed by us occur, then our business, financial condition and results of operation could be materially adversely affected.

On June 10, 2004 we filed a Current Report on Form 8-K that discussed in detail certain risks related to our planned strategy of building and managing a leveraged portfolio of mortgage backed securities. In our Quarterly Report on Form 10-Q, which we filed with the SEC on August 9, 2004, we discussed several additional risks associated with the potential expansion of the mortgage-backed securities strategy to become our largest business. These risks include:

borrowing costs increasing faster than our returns on investment;

sustained increases in short-term interest rates;

accelerated rates of prepayment on underlying mortgages;

inability to achieve targeted borrowing levels;

availability of borrowings;

exceeding target leverage ratios;

compliance with the Investment Company Act of 1940; and

application of accumulated earnings tax.

If any of these risks (or the additional risks identified in our 8-K and 10-Q filings referenced above) occur, our business, financial condition and results of operation could be materially adversely affected.

During the process of managing our leveraged portfolio of mortgage-backed securities as our primary business, the price of our stock may decline or be extremely volatile.

Our stock price may fluctuate widely as we seek to complete our strategic activities and move toward full implementation of our strategy to build and manage a leveraged portfolio of mortgaged-backed securities and other securities consistent with our new investment strategy as our primary business. This may be particularly true until we establish a track record in managing this new business and are able to demonstrate an ability to deliver a consistent and predictable level of performance and results. In addition, the price of our company s stock is likely to move in response to changes in the conditions in the mortgage-backed securities industry and to changes in interest rates, as well as in response to our operating performance.

SUMMARY OF MATERIAL TERMS OF THE ASSET PURCHASE AGREEMENT

The following is a summary of the material provisions of the asset purchase agreement, a copy of which is attached as Appendix A to this proxy statement, and is incorporated by reference into this summary. While we believe this summary covers the material terms of the asset purchase agreement, this summary may not contain all of the information that is important to you, and we urge you to read the asset purchase agreement in its entirety.

The Parties

Aether provides wireless and mobile data solutions that increase efficiency and productivity for the transportation, fleet management, and mobile government markets. We have also implemented a new strategy in which we will focus on building and managing a leveraged portfolio of mortgage-backed securities.

Our transportation and fleet management solutions, are used by over 600 fleets and, include the MobileMax™ multi-mode system. MobileMax automatically switches between land-based and satellite communications to ensure complete coverage and cost-effective communications.

Our public safety solutions help hundreds of police and fire departments in North America leverage the power of wireless for improved service to the public. The PacketCluster family of products provides officers in the field with empowering applications including direct access to motor vehicle and warrant information within seconds, and paperless reporting systems.

More information about Aether can be obtained at Aether s website at www.aethersystems.com.

Slingshot Acquisition Corporation is a Delaware corporation formed by Platinum Equity Capital Partners, L.P. to purchase the assets of our Transportation segment under the asset purchase agreement.

Platinum Equity Capital Partners, L.P., a Delaware limited partnership and together with its affiliated private equity funds, is a $700 million private equity fund and the 100% owner of Slingshot. In this proxy statement, we refer to Platinum Equity Capital Partners, L.P. as the Fund.

Platinum Equity, an affiliate of Slingshot and the Fund, is a global M&A&O℠ firm specialized in the merger, acquisition and operation of mission-critical services and solutions companies. Since its founding in 1995, Platinum Equity has acquired more than 40 businesses and built a portfolio of 19 market-leading companies with over 32,000 employees, more than 600,000 customer sites and annual revenues of $5.5 billion. In this proxy statement, references to Platinum Equity means Platinum Equity, LLC and its affiliates, including the Fund and Slingshot. Platinum Equity has its principal place of business at 2049 Century Park East, Suite 2700, Los Angeles, CA 90067, telephone: (310) 712-1850.

Asset Sale

On July 20, 2004, our board of directors unanimously approved the asset purchase agreement under which we agreed to sell the assets of our Transportation segment to Slingshot for $25 million in cash *plus* the assumption of certain liabilities.

Purchased Assets and Assumed Liabilities

The assets to be sold pursuant to the asset purchase agreement consist of all the operating assets used primarily in the business of the Transportation segment and include (but are not limited to) the following:

operation of the Transportation segment as a going-concern;

rights under contracts with the customers and suppliers of the Transportation segment;

such inventory held or used in connection with the Transportation segment;

personal property used in the Transportation segment;

prepaid expenses, advances or deposits or other prepaid items relating to the Transportation segment;

real property leases and equipment leases;

approvals, permits or licenses that are necessary for the operation of the Transportation segment to the extent they can be transferred;

revenue attributable to the HM 5000 agreements obtained in the acquisition of certain assets of @Track Communications, Inc.;

rights and obligations under any trust or fiduciary agreements and lockboxes and lockbox accounts;

business records, customer lists, and phone and fax numbers;

intellectual property rights (including patents, trademarks and copyrights); and

products and services of the Transportation segment marketed, sold or otherwise distributed prior to the closing of the transaction including the GeoLogic,™ Aether 20/20V™ and MobileMax™ product lines.

Specifically excluded from the purchased assets are:

cash and cash equivalents;

tax prepayments, claims or refunds;

rights and obligations under contracts that are not assumed;

amounts included in goodwill for financial statement purposes;

rights under the asset purchase agreement and ancillary agreements;

corporate seals, certificates of incorporation, and other corporate books;

life insurance policies and other insurance policies;

books and records prepared or relating to the sale of the Transportation segment;

assets owned by or held by any of our employee benefits plans;

confidential and proprietary information relating to Aether or any of our affiliates products or business, other than matters used exclusively in the Transportation segment;

trademark s in any of the following words Aether, Aether Systems, or AIM and all intellectual property licensed to Slingshot pursuant to the asset purchase agreement; and

assets not owned primarily in the operation of the Transportation segment.

Slingshot is assuming liabilities:

incurred in connection with, or arising out of, the ownership or operation of the Transportation segment on or after the closing date;

relating to the purchased assets, including assumed contracts;

set forth on the closing statement of assets and liabilities;

liabilities for taxes associated with the operation of the Transportation segment after the closing; and

liabilities associated with certain product warranty claims and product defects as agreed upon by the parties.

Slingshot is not assuming any liabilities of the Transportation segment other than as described above. Slingshot is not assuming:

pre-closing tax liabilities;

liabilities related to excluded assets;

liabilities related to transferred employees based on pre-closing facts or liabilities under our employee plans;

our liabilities under the asset purchase agreement and related agreements;

liabilities related to pre-closing breaches of contract (including warranties) or torts;

indebtedness for borrowed money;

liabilities between us and our subsidiaries;

liabilities under any contract that is not assumed, other than a contract Slingshot obtains the benefit of in accordance with the asset purchase agreement;

liabilities under any change of control agreement with any transferred employee;

liabilities to any holder of our common stock;

pre-closing liabilities related to environmental laws;

liabilities arising out of our failure to comply with applicable law; and

liabilities arising from litigation based on our activities before the closing.

Purchase Price

The purchase price to be received by us under the asset purchase agreement is $25 million in cash, subject to certain post-closing adjustments for changes to net working capital as described below.

A dollar-for-dollar adjustment to the purchase price will occur if the net working capital calculated as of the end of the month immediately preceding the closing of the proposed sale is less than approximately $27.6 million or greater than $28.2 million. Net working capital means the remainder of (1) the sum of accounts receivable, inventory and prepaid expenses *minus* (2) accounts payable and accrued expenses, each calculated in accordance with GAAP and consistent with our past practice. Net working capital does not include deferred revenue related to hardware sales, deferred costs and operating expenses related to hardware sales, deferred taxes and intangible assets. Within forty-five days after the closing, we will prepare and deliver to Slingshot a statement containing the net working capital as of the close of business on the last day of the month immediately preceding the closing date, unless the closing occurred on the last business day of the month, in which case the statement will be as of the closing date. If there are disagreements with the net working capital statement, the asset purchase agreement contains a dispute resolution mechanism under which a mutually agreeable independent accounting firm will resolve the dispute.

Based on the June 30, 2004 unaudited financial statements, there would be a negative adjustment to the purchase price of approximately $850,000. We believe, however, that although the Transportation segment s working capital has changed since March 31, 2004, it is expected to continue to change in the future and, at this time, we cannot determine whether there will be an adjustment to the purchase price at closing.

If the closing does not occur on the last business day of the month, the operation of the Transportation segment for the period from the closing to the end of the month following the closing will be for the account of Slingshot. To the extent the cash received during this period exceeds the cash payments made during this period, we will pay such difference to Slingshot. If the cash payments made during this period exceed the cash received, Slingshot will pay the amount of such difference to us.

Representations and Warranties

We have made a number of limited representations and warranties, subject to qualification in some cases, in the asset purchase agreement relating to (subject to certain exceptions):

our corporate organization and good standing, and authority to enter into, and enforceability of, the asset purchase agreement and the related transaction documents;

our title to, and the condition of, the assets being sold;

sufficiency of assets;

condition of tangible assets;

material contracts;

customers and suppliers;

litigation and claims;

compliance with laws and regulations;

accuracy of filings made with the SEC;

accuracy of the financial statements;

absence of certain changes or events since March 31, 2004;

our facilities;

absence of violations or defaults under our material agreements;

insurance matters;

inventory used in the Transportation segment;

warranties and product defects;

environmental matters;

tax matters;

employees and employee benefit matters;

accounts payable and accounts receivable;

bank, money market and brokerage accounts;

use of brokers, finders or investment bankers in connection with the asset sale;

books and records; and

intellectual property including the patents, copyrights and trademarks used primarily in the operation of the Transportation segment.

Slingshot has represented and warranted to us that it is an organization in good standing and has authority to enter into the asset purchase agreement and the related transaction documents. Slingshot has represented that no approval is required for it to consummate the purchase of the Transportation segment, the asset purchase agreement and the related transaction documents are enforceable and do not result in the breach of Slingshot s organizational documents or any applicable law, that no brokers fees will be paid in connection with this transaction, and that it will have sufficient funds in cash to pay the purchase price. Slingshot acknowledged it conducted its own due diligence and analysis of the Transportation segment and that we made no representation or warranty with respect to any of the estimates or projections of the Transportation segment.

For purposes of claims for indemnification, the representations set forth above survive for eighteen months except for those representations of Seller (1) relating to organization and good standing, authority, title to property and broker s fees which survive indefinitely and (2) those relating to employee benefit plans, taxes and environmental matters which survive for 60 days after the expiration of the statue of limitations or three years if no statue of limitations applies.

Covenants

Operation of the Business

The asset purchase agreement also contains customary covenants on our operation and use of the assets related to the Transportation segment between the signing of the asset purchase agreement and the closing. Until the closing, we have agreed to operate the business in the ordinary course consistent with past practice and maintain our relationships with material customers and suppliers and use commercially

reasonable efforts to maintain the purchased assets in reasonably good operating condition, normal wear and tear excepted. We will not, without Slingshot s prior written consent:

- dispose any of the assets or license any of the intellectual property used in the operation of the Transportation segment other than in the ordinary course of business;
- pay liabilities other than in the ordinary course of business;
- create any encumbrances on the purchased assets;
- sell, transfer or assign any of the purchased assets other than in the ordinary course of business;
- delay or postpone the payment of accounts payable or other liabilities other than in the ordinary course of business;
- enter into any agreement to pay a bonus or alter the employment terms of any of the employees who work primarily for the Transportation segment;
- materially modify or amend any material contract;
- waive or release any right or claim to any of the purchased assets;
- enter any agreements or other obligations or commitments relating to the Transportation segment that would be a material contract, other than in the ordinary course of business;
- institute or settle any arbitration or regulatory proceeding;
- make any capital expenditures or commitments thereof with respect to the Transportation segment involving the payment of more than $50,000 individually or $100,000 in the aggregate;
- incur any liabilities except for liabilities entered into in the ordinary course of business; or
- commit to take any of the foregoing actions.

Non-Solicitation

We agreed that we will not, and will cause our representatives not to, directly or indirectly:

- solicit, initiate, assist or encourage the making by any person of any acquisition proposal (defined below); or
- participate in any discussions or negotiations regarding, or furnish or disclose to any person any information with respect to an acquisition proposal.

We are not limited, however, in our ability to discuss or negotiate with respect to a transaction or proposal that does not involve the Transportation segment or that does not prevent us from completing the proposed sale.

We are required to promptly notify Slingshot of any acquisition proposal specifying the material terms and conditions thereof and the identity of the party making such proposal. We also agreed to keep Slingshot reasonably informed on a prompt basis of the status and details of any acquisition proposal.

An acquisition proposal means any offer or proposal that is in writing, is from any person, other than Slingshot or its affiliates or representatives, that relates to:

- any merger, consolidation, share exchange, business combination, issuance of securities, acquisition of securities, tender offer, exchange offer or other similar transaction (i) in which we are a constituent corporation, (ii) in which a person or group directly or indirectly acquires securities representing more than 20% of Aether s outstanding shares of common stock or (iii) in which we issue securities representing

more than 20% of the outstanding shares of common stock;

any sale, lease, exchange, transfer, license, acquisition or disposition of any assets that constitute more than 10% of the assets to be sold under the asset purchase agreement (other than the sale of assets in the ordinary course of the business); or

any liquidation or dissolution of Aether.

Notwithstanding any provision described in this section to the contrary, prior to closing, our board of directors is permitted to furnish non-public information to, and enter into discussions with, a person who has made an unsolicited, written, bona fide proposal or offer regarding a superior proposal (defined below) if:

neither Aether nor any of our representatives have violated any of the non-solicitation provisions in the asset purchase agreement;

our board of directors concludes in good faith, after having taken into account the advice of its outside legal counsel and financial advisors, that such action is required in order for our board of directors to comply with their fiduciary obligations to our stockholders under applicable law; and

at least two business days prior to furnishing any such nonpublic information to, or entering into discussions with, such person, we give Slingshot written notice of the receipt of a superior proposal specifying the material terms of such superior proposal and the identity of the person making such superior proposal.

Slingshot has two business days following notice of the superior proposal to provide us with written notice of its revised offer. We are prohibited from changing our stockholder recommendation with respect to such superior proposal until this two day period has expired.

A superior proposal means an unsolicited bona fide acquisition proposal that our board of directors has determined in its reasonable judgment, after consultation with its financial and legal advisors, would, if consummated, be more favorable to us and our stockholders, taking into account the identity of the offeror and the legal, financial, regulatory and other aspects of the proposal, than the terms of the Platinum asset purchase agreement.

Stockholder Meeting and Proxy

We agreed to take all action necessary to hold the special meeting to vote on the proposed sale of the Transportation segment to Slingshot and use our commercially reasonable efforts to hold the special meeting as close to the end of a month as permitted by our charter and bylaws and applicable rules, regulations, laws and listing requirements. We agreed to prepare and file with the SEC this proxy statement as promptly as practicable after the date of the asset purchase agreement and use our commercially reasonable best efforts to solicit proxies in favor of the proposed sale. We have agreed that the proxy statement will include a statement that our board has unanimously approved the transaction, and we have agreed not to withdraw or modify the board s recommendation in a manner adverse to Slingshot. However, if we receive a superior proposal and our board determines that it must withdraw or modify its recommendation to our stockholders in order to comply with its fiduciary obligations, it may withdraw or modify its recommendation.

Non-Competition

We have agreed that we will not compete against Slingshot in the business of providing wireless and mobile data solutions for the transportation industries for two years following the closing date. We are allowed to continue operating and may invest in our Mobile Government segment as long as such operation or expansion does not compete with or involve the provision of wireless and mobile data solutions for the transportation industry.

Employee Matters

We have agreed that for a period of two years after the sale of the Transportation segment, neither we nor any of our affiliates, will solicit to employ any transferred employee (other than by general advertisements) who is, at the time of such solicitation, an employee of Slingshot.

Slingshot agreed to offer employment to all of the employees who work for the Transportation segment on the date of such offer at salary and benefit levels substantially comparable to the terms and conditions of employment with us immediately prior to the closing date. These transferred employees will cease to participate in our employee benefit plans as of the closing and will be entitled to participate in Slingshot s employee plans, programs and arrangements at the same level of seniority and participation as such employee received at Aether. As soon as reasonably practicable after closing, any employee plan of Slingshot that is a tax-qualified defined contribution plan will accept eligible rollover distributions on behalf of a transferred employee.

The parties agreed that for purposes of the Worker Adjustment and Retraining Notification Act of 1988, as amended, or the WARN Act, we will be responsible for all required notices before the closing of the sale and Slingshot will be responsible for all required notices on or after the closing. All employees of the Transportation segment will be deemed to have become employees of Slingshot immediately on the closing date for purposes of the WARN Act.

Guarantee

The Fund has absolutely and unconditionally guaranteed the prompt, complete and full payment and performance of all obligations of Slingshot up to closing under the asset purchase agreement. If Slingshot defaults in the payment or performance of any of its obligations under the asset purchase agreement, the Fund has agreed to perform such obligation when demanded by us. If the asset purchase agreement is terminated because of a material breach of a representation, warranty, covenant or obligation in the asset purchase agreement or is terminated by Buyer in breach of the terms of the asset purchase agreement, the Fund s guarantee obligations shall continue until the 60th day following the expiration of the applicable statute of limitations applicable to claims that could be made in respect of any such breach. If the sale of assets is completed, the Fund s guarantee obligations shall terminate at the closing.

Trademarks

We granted Slingshot a non-exclusive, royalty-free license to use the following trademarks: Aether, Aether Systems and AIM for a period of six months after the closing. After such time, Slingshot must cease using these trademarks and must remove all signs or advertisements and destroy all items and materials containing such marks.

Closing

The closing will occur on the second business day after the special meeting if the proposed sale of the Transportation segment is approved by our stockholders and all other conditions have been satisfied or waived. The parties agreed to use commercially reasonable efforts to satisfy the conditions to closing prior to the special meeting, and if they are unable to hold the closing on or prior to the twentieth day of the month, then the parties agreed to hold the closing on the last business day of the month.

Access to Information

Upon reasonable notice, we will cause our officers, directors, employees, agents, representatives, accountants and counsel to:

afford Slingshot and its representatives reasonable access, during normal business hours, to our offices, properties, plants, other facilities, and books and records relating to the wireless business and to our officers, directors and employees who have any knowledge relating to the Transportation segment, and

furnish to the officers, employees, agents, accountants, counsel, financing sources and representatives of Slingshot additional financial and operating data and other information regarding the assets, properties, liabilities and goodwill of the Transportation segment that are reasonably available to us as reasonably requested by Slingshot.

Such information will be subject to the non-disclosure agreement binding the parties.

Regulatory and Other Authorizations

We have agreed to use our reasonable commercial efforts to obtain all authorizations, consents, orders and approvals of all third parties, including all governmental authorities that may be or become reasonably necessary for the performance of our obligations under the asset purchase agreement and related agreements and to cooperate fully with Slingshot in promptly seeking to obtain all such authorizations, consents, orders and approvals.

The parties have also agreed that, in the event that any consent, approval or authorization reasonably necessary or desirable to preserve for the Transportation segment any right or benefit under any assumed contract is not obtained prior to the closing, we will, subsequent to the closing, attempt to obtain such consent, approval or authorization as promptly after the closing as is reasonably practicable. If such consent, approval or authorization cannot be obtained, we are required to use our reasonable commercial efforts to provide Slingshot with the rights and benefits of any such assumed contract, and we will enforce for Slingshot s account any rights arising from such contract.

Notice of Developments

Prior to the closing, we are required to promptly notify Slingshot of matters that should have been disclosed or described in schedules to the asset purchase agreement and matters occurring after the date of the asset purchase agreement that, would, if they existed on July 20, 2004, have been disclosed on schedules to asset purchase agreement.

Confidentiality

Subject to our rights with respect to the excluded assets and the excluded liabilities, we have agreed to, and have agreed to use our reasonable best efforts to cause our affiliates to hold in confidence all confidential documents and information concerning Slingshot and its affiliates and all confidential information regarding the business, purchased assets, and assumed liabilities.

Slingshot has agreed to, and has agreed to use its reasonable best efforts to cause its affiliates to, hold in confidence all confidential documents and information concerning Aether and our affiliates.

These confidentiality obligations do not apply to any information that (a) at the time of disclosure, is available publicly and was not disclosed in breach of the asset purchase agreement, (b) we reasonably believes is necessary or advisable in connection with any claim against us or Slingshot or for which we or Slingshot are purportedly responsible, whether by a third party or otherwise or (c) later lawfully becomes known from sources other than Slingshot Aether and such person is not under a non-disclosure or confidentiality agreement.

Notwithstanding the foregoing, Slingshot s confidentiality obligations with respect to the purchased assets and the business of the Transportation segment will terminate at the closing of the transaction.

Further Assurances

Each party agreed to cooperate fully with the other party, prior to and after the closing, to execute additional documents as may be reasonably requested to better evidence the proposed sale and to effectuate the intent and purposes of the asset purchase agreement.

Closing Conditions

The obligation of each party to complete the purchase and sale of the Transportation segment is subject to the satisfaction or waiver of the following conditions:

receipt of authorizations, consents, approvals and permits of governmental authorities as specified in the asset purchase agreement;

absence of any injunction or order that would restrain or otherwise prevent the proposed sale;

approval of the proposed sale by our stockholders; and

execution of the ancillary agreements by us and Slingshot.

Our obligation to complete the sale of the Transportation segment is subject to the satisfaction or waiver of the following conditions:

Slingshot having performed in all material respects its pre-closing obligations and covenants;

representations and warranties of Slingshot that are qualified as to materiality being true and correct as of July 20, 2004 and the closing date (unless expressly related to an earlier date, in which case they must be true and correct as of such earlier date), except where failures, individually or together with all other failures, do not have a material adverse effect on the business, operations or financial condition of Slingshot that adversely affects Slingshot s ability to consummate or in any material way frustrates, delays or impedes consummation of the proposed sale;

representations and warranties of Slingshot that are not qualified as to materiality being true and correct in all material respects as of July 20, 2004 and the closing date (unless expressly related to an earlier date, in which case they must be materially true and correct as of such earlier date), except where failures, individually or together with all other failures, do not have a material adverse effect on the business, operations or financial condition of Slingshot that adversely affects Slingshot s ability to consummate or in any material way frustrates, delays or impedes consummation of the proposed sale; and

delivery by Slingshot of an officer s certificate stating that each of the foregoing conditions has been satisfied. Slingshot s obligation to complete the purchase of the Transportation segment is subject to the satisfaction or waiver of the following conditions:

Aether having performed in all material respects with its pre-closing obligations and covenants;

our representations and warranties that are qualified as to materiality being true and correct as of July 20, 2004 and the closing date (unless expressly related to an earlier date, in which case they must be true and correct as of such earlier date), except for changes contemplated by the asset purchase agreement and where failures, individually or together with all other failures, do not have a material adverse effect (as defined below);

our representations and warranties that are not qualified as to materiality being true and correct in all material respects as of July 20, 2004 and the closing date (unless expressly related to an earlier date, in which case they must be materially true and correct as of such earlier date), except for changes contemplated by the asset purchase agreement and where failures, individually or together with all other failures, do not have a material adverse effect (as defined below);

delivery by us of an officer s certificate stating that each of the foregoing conditions has been satisfied;

the absence of a material adverse effect (as defined below); and

receipt of consents from third parties to assignment of permits and certain material contracts.

Material adverse effect means any event or change that has a material adverse effect on the purchased assets, results of operations, personnel or financial condition of the Transportation segment,

taken as a whole, other than any event or change relating to the U.S. economy in general, to the industries in which the Transportation segment operates and not specifically relating to the Transportation segment) or to any outbreak or escalation of hostilities or act of terrorism. In addition, any negative effect from the announcement of the asset purchase agreement or the sale of assets or the fulfillment of the parties obligations under the asset purchase agreement is not a material adverse effect.

Indemnification

The parties have agreed to indemnify each other for breaches of their respective representations, warranties and covenants contained in the asset purchase agreement. The indemnification provided for under the asset purchase agreement is the exclusive remedy of the parties after closing, except in the case of fraud. Generally, each party s representations and warranties survive closing for a period of eighteen months. Our representations and warranties with respect to organization and good standing, authority, title to property and broker s fees survive indefinitely. Our representations and warranties with respect to environmental matters, employee benefit plans and taxes survive until the date that is sixty days past the applicable statute of limitations (or if no statute of limitations, the third anniversary of the closing date). Claims related to fraud survive indefinitely. In order to be indemnified, the party making a claim must provide written notice of a claim within the relevant time period outlined above.

We have agreed to indemnify Slingshot for:

- breach of any of our representations and warranties;
- breach of any of our covenants;
- any liability arising from or related to the excluded assets;
- any liability that is not an assumed liability, including the excluded liabilities; and
- our ownership and operation of the Transportation segment prior to closing, other than with respect to the assumed liabilities.

Slingshot agreed to indemnify us for:

- breach of any of its representations and warranties;
- breach of any of its covenants;
- the assumed liabilities; and
- the ownership and operation of the Transportation segment after closing, other than with respect to the excluded liabilities.

Our obligation to indemnify Slingshot will not arise until its losses reach a minimum of $250,000 and then our liability is for the excess above $250,000. Our liability for indemnification is limited to an amount in excess of $10 million, except in the case of breach of covenants, fraud and breach of representations regarding organization and good standing, authority, title to property, sufficiency of assets and broker s fees, in which case our liability is limited to the purchase price.

If we effect a liquidation or winding-up of our affairs, we agreed to reserve an amount equal to $10 million (less any amounts already paid in satisfaction of prior indemnification claims). This escrow will remain in place until eighteen months after the closing date or such later date as we reasonably determine that it is no longer necessary to satisfy any then-pending claims for indemnification.

Tax Indemnity

We have agreed to indemnify Slingshot for liabilities for taxes arising or resulting from our operation of the Transportation segment prior to the closing. Slingshot has agreed to indemnify us for any tax

liabilities arising or resulting from its operation of the Transportation segment (including any tax liabilities arising out transactions that Slingshot causes to occur after the closing date).

With respect to taxes incurred during the current tax year, the parties agreed to allocate such amounts as follows:

income, sales and use and withholding taxes will be apportioned as if the allocation period consisted of two taxable years (or periods);

real estate taxes will be apportioned on the closing date based on the most recent year s tax bill; and

all other taxes, will be apportioned on a per diem basis.

If Slingshot receives a refund or tax abatement or credit which is attributable to our operation of the business or another tax asset, Slingshot has agreed to pay us an amount equal to such refund, abatement or credit.

Termination

The asset purchase agreement may be terminated at any time prior to closing:

by mutual consent of the parties;

by either party, if the closing does not take place before December 31, 2004;

by either party, if a court or governmental entity enjoins, restrains or prohibits the sale;

by us, if we accept a superior proposal and pay the required termination fee to Slingshot;

by Slingshot, if our board of directors withdraws its recommendation to the stockholders or our board of director s recommends or approves another acquisition proposal;

by Slingshot or us, if the asset purchase agreement is not approved by our stockholders; and

by Slingshot or us, if the non-terminating party has breached any representation or warranty or covenant in any material respect, such breach results in a closing condition related to the performance of a covenant or related to the truth of a representation or warranty to fail to be satisfied and such breach is not cured within sixty days.

We have agreed to pay Slingshot a fee equal to $1 million *plus* the reasonable out-of-pocket expenses incurred in connection with the negotiation and preparation of the asset purchase agreement (not to exceed $250,000) if we terminate the asset purchase agreement to pursue a superior proposal or if either Aether or Slingshot terminates the asset purchase agreement after our board of directors withdraws or modifies its recommendation of the proposed sale in a manner adverse to Slingshot. Also, we have agreed to pay Slingshot a fee equal to $500,000 *plus* fees and expenses (not to exceed $250,000) if our stockholders fail to approve the transaction.

Records

After closing for a period of three years, Slingshot has agreed to provide us with access to the books and records of the Transportation segment that we transferred to Slingshot as part of the sale. In return, for a period of three years after the closing, we have agreed to provide Slingshot access to any books and records related to the operation of the Transportation segment that were not transferred as part of the sale. In each case, the reviewing party shall bear any costs associated with such access.

The parties have also agreed that for a period of three years after the closing, each party will assist the other party (when requested) with the preparation of any tax returns or with any audit or inquiry by a taxing authority or any judicial or administrative proceeding. The requesting party will reimburse the assisting party for any out-of-pocket costs incurred in these circumstances.

Public Announcements

The parties agreed not to issue or release any press releases or other public announcement announcing the sale of the Transportation segment to Slingshot without the prior written consent of the other party (not to be unreasonably withheld) except as required by applicable law, rule, regulation or listing requirement. After the initial announcement, the parties may issue additional press releases or announcements without the other party s consent as long as the information in the release is consistent with the initial release.

Fees and Expenses

Except for any termination fee we may need to pay Slingshot, each party will bear its own costs and expenses incurred in connection with the asset purchase agreement, including legal, accounting and investment banking fees and expenses and the fees and expenses associated with the filing, printing and mailing of this proxy statement and any amendments to it. We anticipate that the total costs we incur in connection with the asset purchase agreement will be approximately $2.5 million.

Amendment and Waiver.

Subject to applicable law, the asset purchase agreement may be amended and observance of its terms waived by a writing signed by the party to be bound thereby. By written notice to the other party, the parties may waive:

any of the conditions to its obligations under the asset purchase agreement or extend the time for the performance of any of the obligations or actions of the others;

any inaccuracies in the representations of the other contained in the asset purchase agreement or in any ancillary document;

compliance with any of the covenants of the other contained in the asset purchase agreement; or

or modify performance of any of the obligations of the others.

Waiver of the breach of any one or more provisions of the asset purchase agreement will not constitute a waiver of other breaches or subsequent breaches of the same provision(s).

UNAUDITED PRO FORMA FINANCIAL INFORMATION

The following unaudited pro forma financial statements give effect to the sale of our Transportation segment. The unaudited pro forma condensed consolidated balance sheet and statements of operations filed with this report are presented for illustrative purposes only. The pro forma balance sheet as of June 30, 2004 has been prepared to reflect the sale of our Transportation segment as if such sale had taken place on such date, and is not necessarily indicative of the financial position of Aether had such sale occurred on that date. The pro forma results of operations for the six months ended June 30, 2004, and the years ended December 31, 2001, 2002 and 2003 have been prepared assuming that the transaction occurred as of the beginning of each of these periods, and are not necessarily indicative of the results of operations for future periods or the results that actually would have been realized had we sold the select assets and liabilities of our Transportation segment as of those dates. The unaudited pro forma financial statements, including notes thereto, should be read in conjunction with the historical financial statements of Aether included in our Form 10-K for the year ended December 31, 2003, the unaudited financial statements filed in our Form 10-Q for the quarter ended June 30, 2004 and the unaudited financial statements of the Transportation segment included as Appendix D.

Costs and expenses attributed to the Transportation segment include direct costs primarily associated with the Transportation segment, as well as corporate expenses, including accounting, legal and human resources expenses. The corporate expenses were allocated to the Transportation segment based upon the percentage of revenue of the Transportation segment relative to Aether s consolidated revenue. Management believes the basis of the allocations is reasonable. Certain corporate non-operating transactions of Aether have not been allocated to the Transportation segment. These items include interest income on Aether s cash and cash equivalents, interest expense and gains on early retirement of Aether s 6% convertible notes. Only interest income directly attributable to the Transportation segment has been included in the financial results of the Transportation segment. As a result of the impact of these allocations, the financial statements included as Appendix D to this proxy statement differ from the unaudited financial information for the Transportation segment included in Aether s prior quarterly and annual filings with the Securities and Exchange Commission. The previously filed segment information was not required to, and does not, include such allocations.

The unaudited pro forma statements of operations reflect the elimination of the revenues and the direct costs associated with the Transportation segment, leaving only the results of our Mobile Government segment, which we have agreed to sell to BIO-key International, Inc., and the cost of our corporate and financing activities. Corporate expenses that were allocated to the Transportation segment have not been eliminated because the buyer following the sale will not assume these costs as part of the proposed sale. However, in the event that the sales of the Transportation and Mobile Government segments are completed, management expects to reduce the amount of corporate expenses to a level estimated to support Aether s mortgaged-backed securities strategy. As such, the unaudited pro forma financial statements do not reflect other costs savings that may occur as a result of Aether s focusing its effort on the mortgaged-backed securities strategy.

Aether Systems, Inc.

Unaudited Pro Forma Condensed Consolidated Balance Sheet

June 30, 2004
(in thousands)

	Historical	Pro Forma Adjustments (A)	Pro Forma
ASSETS			
Current assets:			
Cash and cash equivalents	$252,562	$ 22,700	$275,262
Trade accounts receivable, net	13,634	(4,705)	8,929
Inventory, net	12,058	(12,000)	58
Net investment in sales-type leases (current)	3,068	(3,068)	
Prepaid and other current assets	14,969	(10,542)	4,427
Total current assets	296,291	(7,615)	288,676
Restricted cash	11,490		11,490
Investments	211		211
Property and equipment, net	7,439	(5,223)	2,216
Goodwill	4,249		4,249
Intangibles, net	5,981	(3,945)	2,036
Net investment in sales-type leases (non-current)	8,651	(8,651)	
Other assets	8,700	(6,666)	2,034
Total assets	$343,012	$(32,100)	$310,912
LIABILITIES AND STOCKHOLDERS EQUITY			
Current liabilities:			
Convertible subordinated notes payable	$154,912	$	$154,912
Accounts payable and accrued expenses	11,360	(3,732)	7,628
Accrued employee compensation and benefits	2,203	(945)	1,258
Deferred revenue	14,528	(8,864)	5,664
Restructuring reserve (current portion)	419		419
Accrued interest payable	2,529		2,529
Total current liabilities	185,951	(13,541)	172,410
Deferred revenue, (less current portion)	18,335	(18,335)	
Other long term liabilities	580		580
Total liabilities	204,866	(31,876)	172,990
Stockholders equity	138,146	(224)	137,922
Total liabilities and stockholders equity	$343,012	$(32,100)	$310,912

(A) Reflects the receipt of net proceeds of $22.7 million from the sale of the Transportation segment and the disposition of the respective assets and liabilities.

Aether Systems, Inc.

Unaudited Pro Forma Condensed Consolidated Statement of Operations

Year Ended December 31, 2003
(amounts in thousands)

	Historical	Pro Forma Adjustments (A)	Pro Forma
Subscriber	$ 25,972	$(25,296)	$ 676
Software and related services	19,382		19,382
Hardware	10,196	(9,320)	876
Total revenue	55,550	(34,616)	20,934
Subscriber	11,759	(11,280)	479
Software and related services	4,507		4,507
Hardware	10,774	(9,940)	834
Total cost of revenue	27,040	(21,220)	5,820
Gross profit	28,510	(13,396)	15,114
Research and development	10,282	(4,468)	5,814
General and administrative	29,092	(11,690)	17,402
Selling and marketing	7,799	(3,830)	3,969
Depreciation and amortization	9,986	(4,428)	5,558
Option and warrant expense	1,315	(109)	1,206
Impairment of intangibles and other assets	2,036	(677)	1,359
Loss on disposal of assets	744		744
Restructuring charge	372	(10)	362
Total operating expense	61,626	(25,212)	36,414
Operating loss	(33,116)	11,816	(21,300)
Interest income	7,222	(1,182)	6,040
Interest expense	(10,393)		(10,393)
Equity in losses of investments	(97)		(97)
Investment gains (losses)	587		587
Loss from continuing operations before discontinued operations	(35,797)	10,634	(25,163)
Loss from discontinued operations	(13,655)		(13,655)
Net loss	$(49,452)	$ 10,634	$(38,818)
Net loss per share basic and diluted	$ (1.16)		$ (0.91)
Weighted average shares outstanding basis and diluted	42,616		42,616

(A) Reflects the elimination of the results of operations of the Transportation segment.

Aether Systems, Inc.

Unaudited Pro Forma Condensed Consolidated Statement of Operations

Year Ended December 31, 2002
(amounts in thousands)

	Historical	Pro Forma Adjustments (A)	Pro Forma
Subscriber	$ 31,302	$(30,990)	$ 312
Software and related services	19,550		19,550
Hardware	8,469	(7,841)	628
Total revenue	59,321	(38,831)	20,490
Subscriber	15,846	(15,647)	199
Software and related services	6,150		6,150
Hardware	7,441	(6,834)	607
Total cost of revenue	29,437	(22,481)	6,956
Gross profit	29,884	(16,350)	13,534
Research and development	10,296	(4,045)	6,251
General and administrative	41,569	(15,097)	26,472
Selling and marketing	11,007	(4,182)	6,825
Depreciation and amortization	13,103	(3,314)	9,789
Option and warrant expense	3,132	(90)	3,042
Impairment of intangibles and other assets	33,655	(22,823)	10,832
Restructuring charge	1,703	(345)	1,358
Total operating expense	114,465	(49,896)	64,569
Operating loss	(84,581)	33,546	(51,035)
Interest income	10,504	(541)	9,963
Interest expense	(15,843)		(15,843)
Equity in losses of investments	(4,744)		(4,744)
Gain on early extinguishment of debt	42,765		42,765
Investment gains (losses)	(14,412)		(14,412)
Income tax benefit	618		618
Loss from continuing operations before discontinued operations and cumulative effect of change in accounting principle	(65,693)	33,005	(32,688)
Loss from discontinued operations	(225,853)		(225,853)
Loss from continuing operations before cumulative effect of change in accounting principle	(291,546)	33,005	(258,541)
Cumulative effect of change in accounting principle	(33,876)	1,839	(32,037)
Net loss	$(325,422)	$ 34,844	$(290,578)
Net loss per share basic and diluted	$ (7.73)		$ (6.90)

Weighted average shares outstanding	basis and diluted	42,117	42,117

(A) Reflects the elimination of the results of operations of the Transportation segment.

Aether Systems, Inc.

Unaudited Pro Forma Condensed Consolidated Statement of Operations

Year Ended December 31, 2001
(amounts in thousands)

	Historical	Pro Forma Adjustments (A)	Pro Forma
Subscriber	$ 10,420	$(10,420)	$
Software and related services	22,521		22,521
Hardware	7,395	(3,583)	3,812
Total revenue	40,336	(14,003)	26,333
Subscriber	6,825	(6,825)	
Software and related services	7,982		7,982
Hardware	6,787	(3,238)	3,549
Total cost of revenue	21,594	(10,063)	11,531
Gross profit	18,742	(3,940)	14,802
Research and development	14,983	(3,768)	11,215
General and administrative	52,550	(10,084)	42,466
Selling and marketing	18,956	(6,972)	11,984
Depreciation and amortization	38,377	(14,026)	24,351
Option and warrant expense	4,689	(148)	4,541
Impairment of intangibles and other assets	76,536		76,536
Restructuring charge	1,770	(132)	1,638
Total operating expense	207,861	(35,130)	172,731
Operating loss	(189,119)	(31,190)	(157,929)
Interest income	27,658		27,658
Interest expense	(20,428)		(20,428)
Equity in losses of investments	(57,523)		(57,523)
Gain on early extinguishment of debt	7,684		7,684
Investment gains (losses)	(143,384)		(143,384)
Loss from continuing operations before discontinued operations and cumulative effect of change in accounting principle	(375,112)	(31,190)	(343,922)
Loss from discontinued operations	(1,285,547)		(1,285,547)
Loss from continuing operations before cumulative effect of change in accounting principle	(1,660,659)	(31,190)	(1,629,469)
Cumulative effect of change in accounting principle	6,564		6,564
Net loss	$(1,654,095)	$(31,190)	$(1,622,905)
Net loss per share basic and diluted	$ (40.61)		$ (39.84)

Weighted average shares outstanding	basis and diluted	40,732	40,732

(A) Reflects the elimination of the results of operations of the Transportation segment.

Aether Systems, Inc.

Unaudited Pro Forma Condensed Consolidated Statement of Operations

Six Months Ended June 30, 2004
(amounts in thousands)

	Historical	Adjustments Pro Forma (A)	Pro Forma
Subscriber	$ 10,044	$ (9,943)	$ 101
Software and related services	8,366		8,366
Hardware	6,480	(5,493)	987
Total revenue	24,890	(15,436)	9,454
Subscriber	3,777	(3,746)	31
Software and related services	2,390		2,390
Hardware	7,373	(6,404)	969
Total cost of revenue	13,540	(10,150)	3,390
Gross profit	11,350	(5,286)	6,064
Research and development	5,126	(2,165)	2,961
General and administrative	13,616	(4,980)	8,636
Selling and marketing	3,388	(1,821)	1,567
Depreciation and amortization	4,441	(1,957)	2,484
Option and warrant expense	765	(50)	715
Impairment of intangibles and other assets	35,550	(26,622)	8,928
Gain on disposal of assets	(52)		(52)
Restructuring charge	774	(38)	736
Total operating expense	63,608	(37,633)	25,975
Operating loss	(52,258)	32,347	(19,911)
Interest income	3,210	(601)	2,609
Interest expense	(5,208)		(5,208)
Unrealized gain on future purchase commitments	866		866
Investment gains (losses)	(4,971)		(4,971)
Loss from continuing operations before discontinued operations	(58,361)	31,746	(26,615)
Gain on sale of discontinued operations	17,670		17,670
Net loss	$(40,691)	$ 31,746	$ (8,945)
Net loss per share basic and diluted	$ (0.93)		$ (0.21)
Weighted average shares outstanding basis and diluted	43,538		43,538

(A) Reflects the elimination of the results of operations of the Transportation segment.

SECURITY OWNERSHIP OF CERTAIN

BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth certain information with respect to beneficial ownership of our common stock as of August 4, 2004, as to:

each of our directors and named executive officers individually;

all our directors and executive officers as a group; and

each person (or group of affiliated persons) known by us to own beneficially more than 5% of our outstanding common stock.

For the purposes of calculating percentage ownership as of August 4, 2004, 43,826,736 shares were issued and outstanding and, for any individual who beneficially owns shares of restricted stock that will vest or shares represented by options that are or will become exercisable, on or before August 4, 2004, those shares are treated as if outstanding for that person, but not for any other person. In preparing the following table, we relied upon statements filed with the SEC by beneficial owners of more than 5% of the outstanding shares of our common stock pursuant to Section 13(d) or 13(g) of the Securities Act of 1934, unless we knew or had reason to believe that the information contained in such statements was not complete or accurate, in which case we relied upon information which we considered to be accurate and complete. Unless otherwise indicated, the address of each of the individuals and entities named below is: c/o Aether Systems, Inc., 11500 Cronridge Drive, Suite 110, Owings Mills, Maryland 21117.

	Beneficial Ownership of Shares	
Name and Address	**Number**	**Percent**
Directors and executive officers:		
David S. Oros(1)	5,442,643	12%
David C. Reymann(2)	136,717	*
Michael S. Mancuso(3)	121,140	*
Frank E. Briganti(4)	34,117	*
J. Carter Beese, Jr.(5)	239,302	*
James T. Brady(6)	52,500	*
Jack B. Dunn IV(7)	50,000	*
Edward J. Mathias(8)	87,700	*
Truman T. Semans(9)	82,188	*
George P. Stamas(10)	141,868	*
All directors and named executive officers as a group (10 persons)	6,388,175	14%

Name and Address	Beneficial Ownership of Shares	
	Number	Percent
5% stockholders:		
NexGen Technologies, L.L.C.	3,326,757	7.6%
Telcom-ATI Investors, L.L.C. 211 N. Union St., Suite 300 Alexandria, VA 22314	2,902,027	6.6%
Coghill Capital Management, L.L.C.(11)	2,155,514	4.9%
Clint D. Coghill(12) One North Wacker Drive, Suite 4725 Chicago, IL 60606	2,155,514	
Dimensional Fund Advisors Inc.(12) 1299 Ocean Avenue, 11th Floor Santa Monica, CA 90401	2,694,788	6.8%

* Less than 1%.

(1) Includes 3,326,757 shares of common stock owned by NexGen Technologies, L.L.C. over which Mr. Oros exercises voting and investment control by virtue of his position as managing member of NexGen. Also includes exercisable warrants to purchase 812,500 shares of common stock and exercisable options to purchase 55,600 shares of common stock. Excludes 31,500 shares of unvested restricted stock. In addition, in connection with the sale of the Transportation segment, Mr. Oros has entered into a voting agreement with Slingshot under which he agreed to vote the shares of Aether common stock that he owns or controls in favor of the transaction.

(2) Includes exercisable warrants to purchase 5,416 shares of common stock and exercisable options to purchase 98,334 shares of common stock. Includes 5,000 shares of common stock owned directly. Excludes 6,033 shares of unvested restricted stock.

(3) Includes exercisable options to purchase 103,119 shares of common stock. Includes 854 shares of common stock owned directly. Excludes 7,833 shares of unvested restricted stock.

(4) Includes exercisable options to purchase 26,250 shares of common stock. Excludes 3,333 shares of unvested restricted stock.

(5) Includes exercisable options to purchase 98,600 shares of common stock. Excludes 3,326,757 shares of common stock owned by NexGen, in which Mr. Beese has a currently exercisable option to become a non-managing member.

(6) Includes exercisable options to purchase 50,000 shares of common stock.

(7) Includes exercisable options to purchase 50,000 shares of common stock.

(8) The address for Mr. Mathias is c/o The Carlyle Group, 1001 Pennsylvania Avenue, NW, Washington, DC 20004. Includes exercisable options to purchase 50,000 shares of common stock. Includes 14,000 shares of common stock owned directly, 19,000 shares of common stock held indirectly in a retirement account and 4,700 shares of common stock held as custodian for Ellen Mathias.

(9) Includes 30,000 shares of common stock held jointly by Mr. Semans and his wife, 204 shares of common stock issuable upon conversion of convertible subordinated notes held by Mr. Semans, and 18,650 shares of common stock held by the Semans Scholarship Fund at the Lawrenceville School at which Mr. Semans is a trustee emeritus. Includes exercisable options to purchase 33,340 shares of common stock.

(10) Includes exercisable options to purchase 85,600 shares of common stock.

(11) Based solely on reports filed with the SEC as of August 4, 2004. Includes 2,155,514 shares beneficially owned by CCM Master Qualified Fund, L.L.C. (CCM), Coghill Capital Management, L.L.C. (Coghill Management) which serves as the investment manager of CCM, and Clint D. Coghill who is the managing member of Coghill Management.

(12) Based solely on reports filed with the SEC as of August 4, 2004 Dimensional Fund Advisors Inc. (Dimensional), an investment advisor registered under Section 203 of the Investment Advisors Act of 1940, furnishes investment advice to four investment companies registered under the Investment Company Act of 1940, and serves as investment manager to certain other commingled group trusts and separate accounts. These investment companies, trusts and accounts are called the Investment Group. In its role as investment advisor or manager, Dimensional possesses voting and/or investment power over the securities described in this schedule that are owned by the Investment Group, and may be deemed to be the beneficial owner of the shares of our common stock held by the Investment Group. All securities reported in this schedule are owned by the Investment Group, and Dimensional disclaims beneficial ownership of such securities.

OTHER MATTERS FOR ACTION AT THE SPECIAL MEETING

As of the date of this proxy statement, we know of no matters that will be presented for consideration at the special meeting other than as described in this proxy statement. If, however, other matters are brought before the special meeting, the persons named as proxies will vote in accordance with their judgment on such matters unless otherwise indicated on the proxy.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The information incorporated by reference in this proxy statement as described below is considered to be a part of this proxy statement, except for any information that is modified or superseded by information that is included directly in this proxy statement or by a document subsequently filed with the SEC. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this proxy statement.

This proxy statement incorporates by reference the documents listed below that Aether has previously filed with the SEC. They contain important information about Aether and its financial condition.

Aether s SEC Filings	Period
Current Report on Form 8-K	Filed on June 10, 2004

Also incorporated by reference are additional documents that Aether may file with the SEC after the date of this proxy statement and prior to the date of the special meeting under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act. These documents include periodic reports, such as Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K.

AVAILABLE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission. You may read and copy any document we file with the SEC at the SEC s facilities located at Judiciary Plaza, Room 1024, 450 Fifth Street, N.W., Washington, D.C. 20549 or at the offices of the National Association of Securities Dealers, Inc. located at 1735 K Street, N.W., Washington, D.C. 20006. Please call the SEC at 1-800-SEC-0330 for further information on the SEC s public reference rooms. Our SEC filings also are available to the public at the SEC s website at www.sec.gov.

FORWARD LOOKING STATEMENTS

This Proxy statement contains forward-looking statements, as such term is used in the Securities Exchange Act of 1934, as amended. When used herein, the words anticipate, believe, estimate, intend, may, will, and expect and similar expressions as they relate to Aether or ou management are intended to identify such forward-looking statements. Forward-looking statements are based on current expectations and assumptions, which are subject to risks and uncertainties. They are not guarantees of future performance or results. Aether s actual results, performance or achievements could differ materially from the results expressed in, or implied by, these forward-looking statements. As a result, readers should not place undue reliance on these forward-looking statements. While it is difficult to identify each factor and event that could affect our results, there are a number of important factors that could cause actual results to differ materially from those indicated by the forward-looking statements and as a result could have an adverse impact on our business, financial condition and operating results. The factors include, but are not limited to, the matters discussed in this proxy statement and our public filings. Aether undertakes no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

MISCELLANEOUS

Householding of Proxy Materials

We have adopted a process called householding for mailing this proxy statement in order to reduce printing costs and postage fees. Householding means that stockholders who share the same last name and address will receive only one copy of the proxy statement, unless we receive contrary instructions from any stockholder at that address. We will continue to mail a proxy card to each stockholder of record.

If you prefer to receive multiple copies of the proxy statement at the same address, we will provide additional copies to you promptly upon request. If you are a stockholder of record, please contact David C. Reymann, Chief Financial Officer, at 11500 Cronridge Drive, Suite 110, Owings Mills, Maryland 21117, or at telephone number (410) 654-6400. Eligible stockholders of record receiving multiple copies of the proxy statement can request householding by contacting us in the same manner.

If you are a beneficial owner, you may request additional copies of the proxy statement or you may request householding by contacting your broker, bank or nominee.

Corporate Governance Information

Stockholders can access Aether s corporate governance information, including Aether s Code of Ethics for Senior Financial Officers and the charters of the Audit Committee, Compensation Committee, and Nominating Corporate Governance Committee at Aether s website, www.aethersystems.com.

Communicating with the Board of Directors

In order to communicate with the board of directors as a whole, with non-management directors or with specified individual directors, correspondence may be directed to the Secretary at shareholder inquiries@aethersystems.com or via written communication at 11500 Cronridge Drive, Suite 110, Owings Mills, Maryland 21117.

Appendix A

Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

dated as of
July 20, 2004

ASSET PURCHASE AGREEMENT

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A	Principal Stockholder Agreement

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (*Agreement*), is made and entered into as of July 20, 2004, by and among Aether Systems, Inc., a Delaware corporation (*Seller*), Slingshot Acquisition Corporation, a Delaware corporation (*Buyer*), and Platinum Equity Capital Partners, L.P., a Delaware limited partnership (*Guarantor*). Buyer and Seller are referred to collectively herein as the *Parties* and each is individually, a *Party.*

W I T N E S S E T H:

WHEREAS, Seller is in the business of providing wireless and mobile data solutions for the transportation industry (as provided exclusively through its transportation business segment); and

WHEREAS, Seller desires to sell and assign to Buyer, and Buyer desires to acquire all of the assets and to assume certain liabilities from Seller, in each case relating to the Business (as defined herein), which the Parties agree will be achieved pursuant to (i) the purchase and sale of the Purchased Assets (as defined herein) and (ii) the assumption of the Assumed Liabilities (as defined herein), all on the terms and subject to the conditions set forth in this Agreement.

WHEREAS, the Seller s board of directors has adopted resolutions approving the transactions contemplated by this Agreement and recommending that Seller s stockholders approve and adopt this Agreement and the transactions contemplated hereby.

WHEREAS, concurrently with the execution of this Agreement, as an inducement for Buyer to enter into this Agreement, David S. Oros has entered into a Principal Stockholder Agreement with Buyer, a copy of which is attached hereto as Exhibit A (the *Principal Stockholder Agreement*).

NOW, THEREFORE, in consideration of the mutual promises made herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, and subject to the conditions hereinafter set forth, the Parties hereto agree as follows.

ARTICLE I

DEFINITIONS

Whenever used in this Agreement, the terms defined below shall have the indicated meanings:

Accounts Payable shall mean all accounts payable and accrued Liabilities constituting the obligation to make payments in respect of goods and/or services to the extent received, ordered or contracted for by Seller or any of its respective Affiliates on or prior to the Closing in connection with the Business.

Accounts Receivable shall mean (i) all accounts receivable under agreements or contracts for services provided by the Business and other rights to payment from customers of the Business and the full benefit of all security for such accounts or right to payment, (ii) all other accounts or notes receivable of Seller, including but not limited to accounts receivable under the Equipment Leases, with respect to the Business and the full benefit of all security for such accounts or notes, and (iii) any claim, remedy or other right relating to any of the foregoing.

Acquisition shall mean any transaction or series of transactions involving:

(a) any merger, consolidation, share exchange, business combination, issuance of securities, acquisition of securities, tender offer, exchange offer or other similar transaction (i) in which the Seller is a constituent corporation, (ii) in which a Person or group (as defined in the Exchange Act and the rules promulgated thereunder) of Persons directly or indirectly acquires beneficial or record ownership of securities representing more than 20% of the outstanding securities of any class of voting securities of Seller, or (iii) in which Seller issues securities representing more than 20% of the outstanding securities of any class of voting securities of Seller;

(b) any sale, lease, exchange, transfer, license, acquisition or disposition of any assets that constitute more than 10% of the Purchased Assets (other than the sale of Inventory or services in the ordinary course of the Business); or

(c) any liquidation or dissolution of Seller.

Acquisition Proposal shall mean any offer or proposal that is in writing, is from any Person other than Buyer (or its Affiliates or representatives) and proposes, contemplates or otherwise relates to any Acquisition.

Adjustment Amount shall have the meaning set forth in Section 3.4(b).

Affiliate shall mean, with respect to any Person, any Person which directly or indirectly through stock ownership, other arrangements or otherwise either controls, or is controlled by or is under common control with, such Person.

Agreement shall have the meaning set forth in the preamble.

Allocation shall have the meaning set forth in Section 3.8.

Ancillary Agreements shall mean the (i) Transition Services Agreement, (ii) Deal License Agreement, (iii) Patent Assignment, (iv) Copyright Assignment, (v) Trademark Assignment, (vi) Bill of Sale, (vii) Assignment and Assumption Agreement and (viii) Principal Stockholder Agreement.

Applicable Laws shall mean all laws, statutes, codes, rules, regulations, ordinances and reporting or licensing requirements as may be in effect on or prior to the Closing Date of any Governmental Authority having jurisdiction or regulatory authority over the Purchased Assets, the Assumed Liabilities or the Business.

Assignment and Assumption Agreement shall mean the assignment and assumption agreement to be entered into between Seller and/or its Affiliates and Buyer, in form and substance reasonably satisfactory to Buyer and Seller.

Assumed Liabilities shall mean all Liabilities (whether or not incurred on or prior to the Closing Date) to the extent arising out of, incurred in connection with, or relating to (i) the Purchased Assets (but with respect to the Contracts shall exclude Liabilities resulting from, arising out of or relating to any breach of contract, tort or breach of warranty occurring prior to the Closing Date), (ii) Liabilities for Taxes as set forth in Section 9.1(b), (iii) the ownership or use of the Purchased Assets or the operation of the Business on and after Closing, (iv) all Liabilities and obligations of Buyer under this Agreement and the Ancillary Agreements, (v) all Liabilities set forth on the Closing Statement, as agreed upon pursuant to Section 3.4, and (vi) any Liability set forth on Schedule 1(a).

Bill of Sale shall mean the bill of sale and assignment conveying, selling, transferring, and assigning the Purchased Assets to Buyer, in form and substance reasonably satisfactory to Buyer and Seller.

Books and Records shall mean all books and records of Seller relating exclusively to and necessary for the operation of the Business as it is currently operated, including, but not limited to, cost and pricing information, accounting records, all client lists, telephone numbers and electronic mail addresses with respect to past, present or prospective clients, customers and suppliers and records, training materials, training records, maintenance and inspection reports, equipment lists, repair notes and archives, sales and marketing materials and the Confidentiality Agreements.

Break-Up Fee shall have the meaning set forth in Section 11.3.

Business shall mean the business of Seller and, as applicable, its Affiliates, conducted through its transportation business segment, which provides mobile and wireless solutions to the transportation industry.

Business Day shall mean any day on which commercial banks are open for business in Baltimore, Maryland.

Buyer shall have the meaning set forth in the preamble.

Buyer Employee Plans shall have the meaning set forth in Section 6.2(c)(i).

Buyer 401(k) Plan shall have the meaning set forth in Section 6.2(c)(iii).

Closing shall have the meaning set forth in Section 3.1.

Closing Date shall have the meaning set forth in Section 3.1.

Closing Net Working Capital shall have the meaning set forth in Section 3.4(b).

Closing Net Working Capital Statement shall have the meaning set forth in Section 3.4(b).

Closing Statement shall mean a statement of assets and liabilities of the Business as of the end of the month immediately preceding the Closing Date prepared by Seller and delivered pursuant to Section 3.4(b).

COBRA shall mean the requirements of Part 6 of Subtitle B of Title I of ERISA and Code Section 4980B and any similar state law.

Code shall mean the Internal Revenue Code of 1986, as amended.

Collateral Source shall have the meaning set forth in Section 8.8.

Confidentiality Agreements shall mean those agreements entered into by potential buyers of the Business since January 1, 2003 that continue to restrict their disclosure or use of non-public information about the Business obtained in connection with the potential purchase of the Business. Seller shall be entitled to redact any information included in such agreements that reflects the amount or terms of a third party s bid for or indication of interest in the Business.

Contracts shall mean all written or oral contracts, leases (including unexpired real property leases), subleases, licenses, permits, registrations, authorizations, arrangements, commitments, guarantees, warranties and agreements related primarily to the Purchased Assets or the Business and any and all claims, rights of setoff or recoupment, causes of action, accounts receivable, contracts, contract rights, accounts and/or rights to reciprocal compensation arising under or in connection therewith.

Copyright Assignment shall be the copyright assignment to be entered into between Seller and Buyer in form and substance reasonably satisfactory to Buyer and Seller.

Copyrights shall mean all registered copyrights and applications therefor.

Deal License Agreement shall mean the deal license agreement to be entered into between Seller and Buyer in form and substance reasonably satisfactory to Buyer and Seller.

Disclosure Schedule or *Schedule* shall mean that certain schedule identified as such and delivered by Seller to Buyer pursuant to this Agreement, as the same may be supplemented and updated from time to time in accordance with the terms of this Agreement, each of which is hereby incorporated and made a part of this Agreement for all purposes as if set forth in full herein.

Division Intellectual Property shall have the meaning set forth in Section 4.9(a).

Effective Time Adjustment Amount shall have the meaning set forth in Section 3.5(a).

Effective Time Payments shall have the meaning set forth in Section 3.5(a).

Effective Time Receipts shall have the meaning set forth in Section 3.5(a).

Effective Time Statement shall have the meaning set forth in Section 3.5(a).

Effective Time Statement Objection Notice shall have the meaning set forth in Section 3.5(b).

Effective Time Statement Resolution Period shall have the meaning set forth in Section 3.5(b).

Employee Benefit Plan shall mean all pension, retirement, profit sharing, deferred compensation, stock option, employee stock ownership, severance pay, vacation, bonus or other incentive plan, all other written employee programs, arrangements or agreements, all medical, vision, dental or other health plans, all life insurance plans, and all other employee benefit plans or fringe benefit plans, including any employee benefit

plan (as such term is defined in Section 3(3) of ERISA and any other material employee benefit plan, program or arrangement.

Encumbrances shall mean all security interests, liens (including mechanic, warehousemen, laborers and landlords liens), pledges, charges, easements, judgments escrows, options, mortgages, hypothecations, prior assignments, title retention agreements, indentures, security agreements or any other encumbrances of any kind.

Environmental Laws shall mean any and all Applicable Laws relating to the pollution or the protection of the environment or the protection of human health from environmental hazards.

Equipment Leases shall mean all leases of equipment from Seller to its customers, including those leases that involve a remaining obligation or receipt in excess of $100,000 that are set forth on Schedule 1(b).

ERISA shall mean the Employee Retirement Income Security Act of 1974, as amended.

Exchange Act shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

Excluded Assets shall mean (i) Tax Assets, (ii) Excluded Know-how, (iii) cash, cash equivalents and marketable securities, (iv) defenses and claims that Seller could assert against third parties, other than defenses and claims to the extent related to the Purchased Assets or the Assumed Liabilities, (v) subject to Section 6.2(b), all Trademarks or other indicia of origin of Seller and its Affiliates in any of the following words, logos, stylized lettering, other designs and variants thereof: Aether, Aether Systems or AIM, and intellectual property that is licensed or otherwise made available, but not transferred, to Buyer pursuant to the Deal License Agreement, (vi) all books, documents, records and files prepared in connection with or relating in any way to the transactions contemplated by this Agreement, including bids received from other parties and analyses relating in any way to the Purchased Assets, the Assumed Liabilities and/or the Business (but not the Books and Records or the Confidentiality Agreements), (vii) all rights of Seller and its Affiliates under or pursuant to this Agreement, the Ancillary Agreements and the other agreements and transactions contemplated hereby, (viii) the assets, properties and rights of Seller and its Affiliates not used primarily in the operation of the Business as currently operated, (ix) subject to Section 6.3(b), the rights and obligations of Seller under any agreements, contracts, leases, subleases, licenses, and similar instruments that are not assignable by Seller, (x) any rights under or amounts payable from present or former insurance policies covering Seller or the Business and (xi) any amounts included as goodwill of the Business for financial statement purposes.

Excluded Know-how shall mean any and all product specifications, processes, methods, product designs, plans, trade secrets, ideas, concepts, manufacturing, engineering and other manuals and drawings, physical and analytical, safety, quality control, technical information, data, research records, all promotional literature, customer and supplier lists and similar data and information, and any and all other confidential or proprietary technical and business information owned or controlled by Seller and related to Seller s or any of its or its Affiliates past or present products or businesses, other than such matters used exclusively with respect to the Purchased Assets or the Business as currently operated, as well as any documentation evidencing any of the foregoing.

Excluded Liabilities shall mean any and all Liabilities of the Seller and its Affiliates related in any way to the Business and the Purchased Assets that are not Assumed Liabilities, including, without limitation, Liabilities arising out of, relating to or incurred in connection with (i) Tax Liabilities, (ii) the Excluded Assets, (iii) the Transferred Employees that arise or are based on facts existing prior to Closing or the Seller Employee Plans, (iv) Liabilities of Seller incurred in connection with this Agreement, the Ancillary Agreements or the transactions contemplated thereby, (v) Liabilities of the Business resulting from, arising out of, or relating to any breach of contract, tort, or breach of warranty occurring prior to Closing or that arise after Closing but relate to any such breach that occurred prior to Closing, (vi) indebtedness for borrowed money and outstanding checks and drafts, (vii) any intra-company liabilities of Seller and its Affiliates, other than as set forth on the Closing Statement, (viii) any Liability under any Contract not assigned to Buyer (other than any Contract that Buyer obtains the benefit of in accordance with Section 6.3(b)), (ix) any

Liabilities under any change of control agreement with any of the Transferred Employees, (x) any Liabilities owed to any holder of common stock of Seller, (xi) any Liabilities arising under any Environmental Laws to the extent caused by operation of the Business prior to Closing, (xii) any Liabilities arising out of Seller s failure to comply with Applicable Laws and (xiii) any Liabilities arising from any litigation asserted, alleged or threatened against Seller or with respect to the Business to the extent based upon Seller s conduct prior to the Closing Date.

Expense Reimbursement shall have the meaning set forth in Section 11.3.

Expiration Date shall have the meaning set forth in Section 8.1.

Facility means any real property, including without limitation any improvement, equipment structure, building or fixture located thereon that is owned, used, operated or rented by Seller primarily in connection with the Business.

GAAP shall mean United States generally accepted accounting principles.

Governmental Authority shall mean any governmental department, commission, board, bureau, agency, court or other instrumentality of the United States, or any country, jurisdiction, state, county, province, municipality or other political subdivision thereof or any other supranational organization of sovereign states having jurisdiction over the Seller.

Guarantor shall have the meaning set forth in the preamble.

Hazardous Materials means any substance which is designated as hazardous or toxic under Environmental Laws.

Income Tax shall mean any federal, state, local, or foreign tax based on or measured by reference to net income including any interest, penalty, or addition thereto, whether disputed or not.

Indemnified Party shall have the meaning set forth in Section 8.4(a).

Indemnifying Party shall have the meaning set forth in Section 8.4(a).

Indemnity Cap shall have the meaning set forth in Section 8.7.

Independent Accounting Firm shall have the meaning set forth in Section 3.4(b).

Intellectual Property shall mean all (i) Patents, (ii) Know-how, (iii) Trademarks, (iv) Copyrights, (v) software programs and (vi) all Other IP, whether registered or not, in each case that are licensed or owned by Seller.

Interim Period means the period beginning on the first day of the month in which the Closing occurs and ending at the close of business on the day immediately preceding the Closing Date.

Inventory shall mean the consumable inventory of Seller, wherever located, including, without limitation, all finished goods, work in process, raw materials, spare parts and all other materials and supplies to be used or consumed by the Business.

Know-how shall mean any and all product specifications, processes, methods, product designs, plans, trade secrets, ideas, concepts, inventions, manufacturing, engineering and other manuals and drawings, physical and analytical, safety, quality control, technical information, data, research records, all promotional literature, customer and supplier lists and similar data and information, and any and all other confidential or proprietary technical and business information which are licensed to or owned by Seller and used exclusively in the Business as currently operated.

Leased Real Property shall mean the Leases pursuant to which Seller holds a leasehold or subleasehold estate in, or is granted the right to use or occupy any land, buildings, structures, improvements, fixtures or other interests in real property used in the Business as currently operated.

Leases shall mean all of Seller s right, title and interest in any lease, sublease, license, concession or other arrangement pursuant to which Seller holds a leasehold or subleasehold estate in, or is granted the right

to use or occupy any land, buildings, structures, improvements, fixtures or other interest in real property used exclusively in the Business prior to the Closing Date, other than Seller s interest in any land, buildings, structures, improvements or fixtures located at 11500 Cronridge Drive, Suite 110, Owings Mills, Maryland.

Legal Requirement means any federal, state, local, municipal, foreign, international, multinational or other administrative order, constitution, law, ordinance, principle of common law, regulation, statute or treaty.

Liability shall mean any and all direct or indirect indebtedness, liabilities, assessments, expenses, claims, Losses, deficiencies, obligations or responsibilities, known or unknown, disputed or undisputed, joint or several, vested or unvested, executory or not, fixed or unfixed, choate or inchoate, liquidated or unliquidated, secured or unsecured, determinable or undeterminable, accrued or unaccrued, absolute or not, actual or potential, contingent or otherwise (including any Liability under any guarantees, letters of credit, performance credits or with respect to insurance loss accruals), whether due or to become due, and whether claims with respect thereto are asserted, if at all, before or after the Closing.

Liquidation shall have the meaning set forth in Section 8.11.

Losses shall mean any and all out of pocket losses, demands, claims, actions or causes of action, costs, damages, judgments, obligations (including corrective or remedial obligations), debts, settlements, assessments, deficiencies, Taxes (excluding Income Taxes and any other Taxes incurred prior to the Closing Date), penalties, fines or expenses, whether or not arising out of any claims by or on behalf of a third party, including interest, penalties, reasonable attorney s fees and expenses and all reasonable amounts paid in investigation, defense or settlement of any of the foregoing, but specifically excluding any consequential or punitive damages.

Material Adverse Effect shall mean any event, change, circumstance or effect that has a material adverse effect on the Purchased Assets, results of operations, personnel or financial condition of the Business, taken as a whole, other than any event, change, circumstance or effect relating (i) to the United States economy in general, or the economy of any foreign country in general in which Seller participates, (ii) in general to the industries in which the Business operates and not specifically relating to the Business, (iii) financial, banking, or securities markets (including any disruption thereof and any decline in the price of any security or any market index), (iv) to the announcement of the Agreement or any transactions contemplated hereunder, the fulfillment of the Parties obligations hereunder of the consummation of the transactions contemplated by this Agreement, or (v) to any outbreak or escalation of hostilities or act of terrorism involving the United States or any declaration of war by the U.S. Congress that does not affect the operations or financial condition of the Business or the Purchased Assets in a disproportionate manner.

Material Contract shall have the meaning set forth in Section 4.20.

Minimum Loss shall have the meaning set forth in Section 8.7.

Most Recent Statement shall mean the statement of assets and liabilities of the Business dated March 31, 2004.

Net Working Capital shall be the amount equal to the remainder of (i) the sum of (a) Accounts Receivable (including Accounts Receivable from Equipment Leases and net of any reserves thereon), (b) Inventory (net of any reserves thereon), and (c) Prepaid Expenses and other current assets (net of any reserves thereon), *minus* (ii) Accounts Payable (including accrued expenses and accrued employee compensation and benefits). In the case of all of the foregoing items, each shall be calculated in accordance with GAAP consistent with past practice. For the avoidance of doubt, Net Working Capital shall not include deferred revenue related to hardware sales, deferred costs and operating expenses related to hardware sales, deferred taxes and intangible assets. Notwithstanding anything to the contrary hereto, no reserves or accruals on the Most Recent Statement shall be reversed in whole or in part in the absence of changes in facts or circumstances occurring since the date hereof.

Non-Competing Transaction shall have the meaning set forth in Section 6.1(c).

Non-Disclosure Agreement shall mean that certain Non-Disclosure Agreement, dated March 31, 2004, between Friedman, Billings, Ramsey & Co., Inc., on behalf of Seller, and Buyer s Affiliate.

Other IP shall mean (i) any and all applicable copyrightable works, maskwork rights, including all rights of authorship, use, publication, reproduction, distribution, performance, transformation, moral rights, and rights of ownership of copyrightable works, maskworks and all rights to register and obtain renewals and extensions of registrations together with all other interests accruing by reason of international copyright and maskwork conventions and (ii) any inventions or discoveries that may be patentable (including all reissues, divisions, continuations, continuations in part, renewals, re-examinations and extensions of the foregoing) each as owned by Seller and used exclusively in the Business as currently operated.

Party or *Parties* shall have the meaning set forth in the introductory paragraph.

Patents shall mean all patents, patent disclosures, and patent applications (including, without limitation, all reissues, divisions, continuations, continuations in part, renewals, re-examinations and extensions of the foregoing) owned by Seller and used primarily in the Business as currently operated.

Patent Assignment shall mean the patent assignment to be entered into between Seller and Buyer in form and substance reasonably satisfactory to Buyer and Seller.

Permits shall mean all permits, licenses approvals, registrations, qualifications, rights, certificates, certifications, consents, and other authorizations of every nature whatsoever required by, or issued to or on behalf of Seller by any Governmental Authority used in the Business as currently operated.

Permitted Encumbrances shall mean (i) any Encumbrances specifically disclosed in Seller s Form 10-K as filed with the SEC on March 15, 2004 as set forth on Schedule 1(d), (ii) liens for Taxes, assessments and other governmental charges not yet due and payable or being contested in good faith, (iii) mechanics , workmen s, repairmen s, warehousemen s, carriers or other like liens arising or incurred in the ordinary course of business, and equipment leases with third parties entered into in the ordinary course of business or other Encumbrances incurred by the Business that are a matter of public record, (iv) licenses of Divisional Intellectual Property granted in the ordinary course of the operation of the Business, (v) with respect to the Leased Real Property: (a) easements, quasi-easements, licenses, covenants, rights-of-way, and other similar restrictions, including without limitation any other agreements, conditions or restrictions, in each case, which are a matter of public record, (b) any conditions that would be shown by a current survey or physical inspection and (c) zoning, building and other similar restrictions pursuant to Applicable Laws, and (vi) any other Encumbrance that is immaterial with respect to the Purchased Asset which it encumbers.

Person shall mean an individual, a corporation, a limited or general partnership, a limited liability company, an association, a trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

Personal Property shall mean the equipment, furniture, leasehold improvements, machinery, computer hardware, motor vehicles, telephones, telephone systems and other tangible personal property owned by Seller and used in the Business as currently operated, including all of Seller s rights to assignable warranties made by third parties to Seller, but excluding any personal property located at 11500 Cronridge Drive, Suite 110, Owings Mills, Maryland that is not used exclusively in the Business, other than personal property of Transferred Employees.

Prepaid Expenses as of any date shall mean payments made by Seller or any of its Affiliates with respect to the Business or the Purchased Assets, which constitute prepaid expenses in accordance with GAAP.

Pre-Closing Statement shall have the meaning set forth in Section 3.4(a).

Principal Stockholder Agreement shall have the meaning set forth in the recitals.

Proxy Statement shall mean the proxy statement to be sent to Seller s stockholders in connection with the Seller Stockholders Meeting.

Public Reports means the Company s Exchange Act filings with the SEC since July 1, 2003.

Public Software shall mean any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g., Linux) or similar licensing or distribution models which requires the distribution of source code to licensees, including software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: (i) GNU s General Public License (GPL) or Lesser/ Library GPL (LGPL); (ii) the Artistic License (e.g., PERL); (iii) the Mozilla Public License; (iv) the Netscape Public License; (v) the Sun Community Source License (SCSL); (vi) the Sun Industry Standards License (SISL); (vii) the BSD License; and (viii) the Apache License.

Purchase Price shall have the meaning set forth in Section 3.2.

Purchase Price Objection Notice shall have the meaning set forth in Section 3.4(b).

Purchase Price Resolution Period shall have the meaning set forth in Section 3.4(b).

Purchased Assets shall mean all right, title and interest in and to all assets used primarily in the Business (or, to the extent specified in the definitions of the defined terms used in the balance of this definition, used exclusively in the Business), other than the Excluded Assets, including, without limitation, (i) the Leased Real Property, (ii) the Personal Property, (iii) subject to Section 6.3(b), the Contracts and Permits, (iv) the Accounts Receivable, (v) the Division Intellectual Property, (vi) the Inventory, maintenance and operating supplies used in the Business as currently operated, (vii) the Prepaid Expenses and other current assets relating primarily to the Business, (viii) subject to Section 6.3(d), all rights and obligations of Seller in, to and under any trust or fiduciary agreements and lockboxes and lockbox accounts, specifically identified on Schedule 4.25, including all funds paid thereto, (ix) copies of all personnel records of Transferred Employees that are not prohibited by Applicable Laws from being transferred, (x) the Books and Records and (xi) defenses and claims of Seller to the extent related to the Purchased Assets and Assumed Liabilities.

Release shall have the meaning provided under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601).

Required Seller Stockholder Vote shall mean the affirmative vote by the holders of a majority of the outstanding shares of Seller s common stock, par value $0.01 per share, consenting to the transactions contemplated by this Agreement.

SEC shall mean the Securities and Exchange Commission.

Seller shall have the meaning set forth in the preamble.

Seller Board Recommendation shall have the meaning set forth in Section 6.1(e)(ii).

Seller Employee Plans shall have the meaning set forth in Section 4.10.

Seller 401(k) Plan shall have the meaning set forth in Section 6.2(c)(iii).

Seller Product shall mean each of the products marketed, sold, licensed or otherwise distributed by Seller exclusively in connection with the Business.

Seller New Matters shall have the meaning set forth in Section 6.3(c).

Seller Stockholders Meeting shall have the meaning set forth in Section 6.1(c).

Seller s Knowledge shall mean, and be limited to, the actual knowledge after reasonable investigation of David Oros, David Reymann, Steven Bass, Frank Briganti and Kristie Scott, it being agreed and understood that none of such individuals is making any representations or warranties to Buyer and that such individuals shall have no liability to Buyer under this Agreement or as a result of their being named in this definition in connection with the matters covered in ARTICLE IV.

Service Contracts shall mean all Contracts for service with respect to an Equipment Lease, including those Contracts for service that involve a remaining obligation or receipt in excess of $100,000 that are set forth on Schedule 1(c).

Straddle Period shall mean any taxable year or period beginning before and ending after the Closing Date.

Superior Proposal shall mean an unsolicited, bona fide offer made by a third party for an Acquisition that is on terms that the board of directors of Seller determines, in its reasonable judgment, after consultation with its financial advisors and legal counsel, would, if consummated, be more favorable to Seller and Seller s stockholders (taking into account such factors as Seller s board of directors in good faith deems relevant, including the identity of the offeror and all legal, financial, regulatory and other aspects of the proposal) than the terms of the transactions contemplated by this Agreement, taking into account any change proposed by Buyer.

Target Net Working Capital shall mean $28,217,000.

Tax Assets shall mean any refund, abatement or credit of, and all other assets comprising receivables or deferred assets or prepayments for, Taxes arising or resulting from Seller s and its Affiliate s conduct of the Business or ownership of the Purchased Assets for taxable periods ending on or before the Closing Date.

Tax Liabilities shall mean all liabilities for Taxes arising or resulting from Seller s and its Affiliate s conduct of the Business or ownership of the Purchased Assets (including for the avoidance of doubt, any payroll, employment or withholding Taxes arising from or with respect to the exercise of stock options issued by the Seller or its Affiliates to Transferred Employees).

Tax Returns shall mean all reports, returns, schedules and any other documents required to be filed with respect to Taxes and all claims for refunds of Taxes.

Taxes (and with correlative meanings, Tax and Taxable) shall mean all taxes of any kind imposed by a federal, state, local or foreign Governmental Authority, including but not limited to those on, or measured by or referred to as income, gross receipts, financial operation, sales, use, ad valorem, value added, franchise, profits, license, withholding, payroll (including all contributions or premiums pursuant to industry or governmental social security laws or pursuant to other tax laws and regulations), employment, excise, severance, stamp, occupation, premium, property, transfer or windfall profits taxes, customs, duties or similar fees, assessments or charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts imposed by such Governmental Authority with respect to such amounts.

Termination Fee shall have the meaning set forth in Section 11.3.

Third Party Intellectual Property shall have the meaning set forth in Section 4.9(c).

Trademark Assignment shall mean the trademark assignment to be entered into between Seller and Buyer in form and substance reasonably satisfactory to Buyer and Seller.

Trademarks shall mean (i) trademarks, service marks, trade names, trade dress, labels, logos and all other names and slogans used exclusively with any products or embodying associated goodwill of the Business related to such products, whether or not registered, and any applications or registrations therefor, and (ii) any associated goodwill incident thereto, in each case owned by or licensed to Seller and used with respect to the Purchased Assets or in the Business as currently operated.

Transfer Taxes shall have the meaning set forth in Section 3.9.

Transferred Employees shall have the meaning set forth in Section 6.2(c).

Transition Services Agreement shall mean the transition services agreement to be entered into between Seller or its Affiliates and Buyer in form and substance reasonably satisfactory to Buyer and Seller.

Unaudited Financial Statements shall have the meaning set forth in Section 4.14(b).

WARN Act shall mean the Worker Adjustment and Retraining Notification Act of 1988, as amended.

ARTICLE II

PURCHASE AND SALE OF THE ASSETS AND ASSUMPTION OF LIABILITIES

Section 2.1 Purchase and Sale of Assets.

(a) Subject to the terms and conditions of this Agreement, Seller agrees to sell, assign, convey, transfer and deliver to Buyer as of the Closing Date, and Buyer agrees to purchase and take assignment and delivery from Seller as of the Closing Date, all of Seller s right, title and interest in and to the Purchased Assets, free and clear of all Encumbrances other than the Permitted Encumbrances.

(b) Seller shall retain and not sell, convey, transfer or deliver to Buyer, and Buyer shall not purchase or have any rights in or to, the Excluded Assets.

(c) The transfer of the Purchased Assets pursuant to this Agreement shall not include the assumption of any Liabilities of Seller unless Buyer expressly assumes any such Liabilities pursuant to Section 2.2 hereof.

Section 2.2 Assignment and Assumption of Liabilities.

(a) Subject to and in accordance with the terms and conditions of this Agreement, Buyer will assume as of the Closing Date responsibility for the performance and satisfaction when due of the Assumed Liabilities.

(b) The liabilities and obligations of Seller and its Affiliates transferred to Buyer as of the Closing Date shall not include any Liability of Seller that is not an Assumed Liability and shall not include the Excluded Liabilities.

ARTICLE III

CLOSING

Section 3.1 Closing. Subject to the Parties satisfaction or waiver of the conditions precedent set forth in ARTICLE VII, the closing and consummation of the transactions contemplated by this Agreement (the *Closing*) shall take place on the second Business Day after receipt of the Required Seller Stockholder Vote or if all of the conditions set forth in ARTICLE VII have not been satisfied or waived as of such date, then the second Business Day after all such conditions have been satisfied or waived (such date being the *Closing Date*). The Closing shall occur at 10:00 a.m., Eastern Time, at the offices of Kirkland & Ellis LLP at 655 15th Street, NW, Suite 1200, Washington, DC 20005. The Parties shall use commercially reasonable efforts to satisfy all of the conditions set forth in ARTICLE VII (other than receipt of the Required Seller Stockholder Vote) prior to the Seller Stockholders Meeting and the Parties further agree that if they are unable to hold the Closing on or prior to the 20th day of a calendar month, they shall hold the Closing on the last Business Day of such calendar month.

Section 3.2 Purchase Price. Subject to the terms and conditions set forth in this Agreement, Buyer agrees to pay at Closing to Seller the sum (subject to post-Closing adjustment pursuant to Section 3.4(b)) (the *Purchase Price*) of Twenty Five Million Dollars ($25,000,000) representing the aggregate consideration for the purchase and sale of the Purchased Assets.

Section 3.3 Closing Payment. At Closing, Buyer shall pay to Seller the Purchase Price in immediately available funds by wire transfer to an account designated by Seller by written notice to Buyer. Seller shall designate such account in writing at least two (2) Business Days prior to the Closing Date.

Section 3.4 Determination of Purchase Price and Adjustments to Purchase Price.

(a) No less than three (3) Business Days prior to the Closing Date, the Seller shall (i) prepare and deliver to Buyer a statement of assets and liabilities of the Business as of the end of the month immediately preceding the month in which the Closing occurs (the *Pre-Closing Statement*), (ii) include with the Pre-Closing Statement information showing what Closing Net Working Capital would be if the

Closing had occurred on such date, and (iii) provide Buyer with a certificate of its Chief Financial Officer stating that the Pre-Closing Statement and the accompanying calculation were prepared by Seller in good faith, and the Pre-Closing Statement was prepared in a manner consistent with Seller s past practices, is consistent with the Books and Records and presents fairly the balance sheet items of the Business reflected thereon as of the date thereof.

(b) As soon as practicable (and in any event within forty-five (45) days following the Closing), Seller shall prepare and deliver to Buyer, (i) the Closing Statement, (ii) a statement (the *Closing Net Working Capital Statement*) setting forth Net Working Capital as of the close of business on the last day of t