

BIO KEY INTERNATIONAL INC  
Form DEF 14A  
April 30, 2019  
**SCHEDULE 14A**

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

**Securities Exchange Act of 1934**

Filed by the Registrant    Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

**Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to ss.240.14a-11(c) or ss.240.14a-12

**BIO-KEY INTERNATIONAL, 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):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.

(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):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

April 30, 2019

Dear Stockholder:

You are cordially invited to attend the 2019 Annual Meeting of Stockholders of BIO-key International, Inc., on Thursday, June 13, 2019, at 10:00 a.m., local time, at the offices of Fox Rothschild LLP, 997 Lenox Drive, Building 3, Lawrenceville, NJ 08648.

The Notice of Annual Meeting of Stockholders and Proxy Statement on the following pages describe the matters to be presented at the meeting.

It is important that your shares be represented at the meeting, regardless of the number of shares you hold and whether or not you plan to attend the meeting in person. Accordingly, please exercise your right to vote by signing, dating and returning your proxy card in the enclosed envelope, voting by internet, or voting by telephone as described in the Proxy Statement. Your shares will be voted in accordance with the instructions you have given in your proxy.

Our board of directors and management look forward to seeing you at the meeting. Thank you for your continued support.

Sincerely yours,

Michael W. DePasquale  
Chairman and Chief Executive Officer

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**BIO-key International, Inc.**  
**3349 Highway 138, Building A, Suite E**  
**Wall, NJ 07719**

**Notice of Annual Meeting of Stockholders**  
**Thursday, June 13, 2019**

To Our Stockholders:

The Annual Meeting of Stockholders of BIO-key International, Inc., a Delaware corporation (the “Company”), will be held on Thursday, June 13, 2019, at 10:00 a.m., local time, at the offices of Fox Rothschild LLP, 997 Lenox Drive, Building 3, Lawrenceville, NJ 08648, for the following purposes:

1. To elect eight members of the board of directors to serve until the 2020 Annual Meeting of Stockholders and until their successors have been duly elected and qualified;
2. To adopt an amendment to the BIO-key International, Inc. 2015 Equity Incentive Plan;
3. To ratify the selection of Rotenberg Meril Solomon Bertiger & Guttilla, P.C. as the Company’s independent registered public accounting firm for the year ending December 31, 2019;
4. To approve, on an advisory basis, our executive compensation; and
5. To transact such other business as may properly come before the meeting or any continuation, adjournment or postponement thereof.

All stockholders are invited to attend the meeting. Holders of record of the Company’s common stock at the close of business on April 22, 2019, are entitled to notice of, and to vote at, the meeting.

By Order of the Board of Directors

Michael W. DePasquale

Chairman of the Board of Directors  
Wall, NJ  
April 30, 2019

**WHETHER OR NOT YOU EXPECT TO ATTEND THE MEETING, PLEASE SUBMIT YOUR PROXY AS SOON AS POSSIBLE SO THAT YOUR SHARES WILL BE REPRESENTED AT THE MEETING.**

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**BIO-key International, Inc.**  
**3349 Highway 138, Building A, Suite E**  
**Wall, NJ 07719**

**PROXY STATEMENT**  
**2019 ANNUAL MEETING OF STOCKHOLDERS**

The enclosed proxy is solicited by the board of directors of BIO-key International, Inc. (the “Company,” “we” or “us”) for use at the 2019 Annual Meeting of Stockholders (the “Annual Meeting”) to be held on Thursday, June 13, 2019, at 10:00 a.m., local time, at the offices of Fox Rothschild LLP, 997 Lenox Drive, Building 3, Lawrenceville, NJ 08648, and at any continuation, adjournment or postponement thereof.

**GENERAL INFORMATION ABOUT THE ANNUAL MEETING AND VOTING**

**Who Can Attend and Vote**

Only holders of our common stock of record at the close of business on April 22, 2019, the record date, are entitled to notice of and to vote at the Annual Meeting, and at any continuation(s), postponement(s) or adjournment(s) thereof. As of the record date, 14,071,688 shares of our common stock, par value \$.0001 per share (“common stock”), were issued and outstanding. Holders of our common stock are entitled to one vote per share for each proposal presented at the Annual Meeting. The common stock does not have cumulative voting rights.

**Voting Your Shares**

If you are a registered holder, meaning that you hold our stock directly (not through a bank, broker or other nominee), you may vote in person at the Annual Meeting or by completing, dating and signing the proxy and promptly returning it, by telephone, or electronically through the internet by following the instructions included on your proxy card. All signed, returned proxies that are not revoked will be voted in accordance with the instructions contained therein. Signed proxies that give no instructions as to how they should be voted on a particular proposal at the Annual Meeting will be counted as votes “for” such proposal or, in the case of the election of directors, as a vote “for” election of the eight nominees presented by the board of directors.

If your shares are held through a bank, broker or other nominee, you are considered the beneficial owner of those shares. You may be able to vote by telephone or electronically through the internet in accordance with the voting instructions provided by that nominee. You must obtain a legal proxy from the nominee that holds your shares if you wish to vote in person at the Annual Meeting.

Applicable stock exchange rules restrict when brokers who are record holders of shares may exercise discretionary authority to vote those shares in the absence of instructions from beneficial owners. Brokers are not permitted to vote on non-discretionary items such as director elections, executive compensation, and other significant matters absent instructions from the beneficial owner. As a result, if you are a street name stockholder, and you do not give voting instructions, the holder of record will not be permitted to vote your shares with respect to Proposal No. 1-Election of Directors Proposal, Proposal No. 2-Amendment to 2015 Equity Incentive Plan, or Proposal No. 4-Advisory Vote on Executive Compensation and your shares will be considered “broker non-votes” with respect to these proposals. Although any broker non-votes would be counted as present at the Annual Meeting for purposes of determining a quorum, they will be treated as not entitled to vote with respect to each of Proposal Nos. 1, 2 and 4. If you are a street name stockholder, and you do not give voting instructions, the record holder will be entitled to vote your shares with respect to Proposal No. 3-Ratification of the Appointment of Rotenberg Meril Solomon Bertiger & Guttilla, P.C. as our Independent Registered Public Accounting Firm for the Year Ending December 31, 2019 in its discretion.

In the event that sufficient votes in favor of the proposals are not received by the date of the Annual Meeting, the Chairman of the Annual Meeting may adjourn the Annual Meeting to permit further solicitations of proxies.

The telephone and internet voting procedures are designed to authenticate stockholders’ identities, to allow stockholders to give their voting instructions and to confirm that stockholders’ instructions have been recorded properly. Stockholders voting via the telephone or internet should understand that there may be costs associated with telephonic or electronic access. These charges include usage charges from telephone companies and internet access providers. The stockholder will bear the cost of these charges.



## **Procedural Matters**

If you are a registered stockholder, you may vote your shares or submit a proxy to have your shares voted by one of the following methods:

*By Internet.* You may submit a proxy electronically via the internet by following the instructions provided on the proxy card. Please have your proxy card in hand when you access the website. Internet voting facilities will close at 11:59 p.m. ET on June 12, 2019.

*By Telephone.* You may submit a proxy by telephone using the toll-free number listed on the proxy card. Please have the proxy card in hand when you call. Telephone voting facilities will close at 11:59 p.m. ET on June 12, 2019.

*By Mail.* You may submit a proxy by signing, dating and returning your proxy card in the provided pre-addressed envelope in accordance with the enclosed instructions. We encourage you to sign and return the proxy or voter instruction card even if you plan to attend the Annual Meeting so that your shares will be voted even if you are unable to attend.

*In Person.* If you plan to attend the Annual Meeting and vote in person, we will provide you with a ballot at the Annual Meeting. You may vote in person at the Annual Meeting by completing a ballot; however, attending the Annual Meeting without completing a ballot will not count as a vote.

If your shares are held in street name, you will receive instructions from the holder of record that you must follow in order for your shares to be voted. Internet and/or telephone voting will also be offered to stockholders owning shares through most banks and brokers.

## **Quorum**

The presence at the Annual Meeting in person or by proxy of holders of a majority of our common stock outstanding and entitled to vote at the Annual Meeting will constitute a quorum.

## **Required Vote, Abstentions and Broker Non-Votes**

Only stockholders of record at the close of business on April 22, 2019 have the right to vote at the Annual Meeting. The proposals at the Annual Meeting will require the following votes:

Directors will be elected by a plurality of all votes cast. You may vote “FOR ALL NOMINEES,” “WITHHOLD FOR ALL NOMINEES” or “FOR ALL EXCEPT” for the director nominees. Withheld votes and broker non-votes will have no effect on Proposal No. 1.

Approval of the amendment to the BIO-key International, Inc. 2015 Equity Incentive Plan will require the affirmative vote of a majority of the shares present in person or represented by proxy at the Annual Meeting and entitled to vote on this matter. You may vote “FOR,” “AGAINST” or “ABSTAIN” on the proposal to approve the amendment to the BIO-key International, Inc. 2015 Equity Incentive Plan. Abstentions will have the same effect as a vote against Proposal No. 2 and broker non-votes will have no effect on Proposal No. 2.

Ratification of the selection of Rotenberg Meril Solomon Bertiger & Guttilla, P.C. as our independent registered public accounting firm will require the affirmative vote of a majority of the shares present in person or represented by proxy at the Annual Meeting and entitled to vote on this matter. You may vote “FOR,” “AGAINST” or “ABSTAIN” on the proposal to ratify the selection of Rotenberg Meril Solomon Bertiger & Guttilla, P.C. as our independent registered public accounting firm. Abstentions will have the same effect as a vote against Proposal No. 3. We do not expect any broker non-votes in connection with respect to Proposal No. 3.

Approval, on an advisory basis, of our executive compensation will require the affirmative vote of a majority of the shares present in person or represented by proxy at the Annual Meeting and entitled to vote on this matter. You may vote “FOR,” “AGAINST” or “ABSTAIN” on the proposal to approve, on an advisory basis, our executive compensation. Abstentions will have the same effect as a vote against Proposal No. 4 and broker non-votes will have no effect on Proposal No. 4.

A “withheld vote,” in the case of the proposal regarding the election of directors, or an “abstention,” in the case of the proposal regarding the ratification of the selection of our independent registered public accounting firm, or the proposal regarding the approval, on an advisory basis, of our executive compensation, represents a stockholder’s affirmative choice to decline to vote on a proposal.

Generally, “broker non-votes” occur when shares held by a broker in street name for a beneficial owner are not voted with respect to a particular proposal because the broker (1) has not received voting instructions from the beneficial owner and (2) lacks discretionary voting power to vote those shares. A broker is entitled to vote shares held for a beneficial owner on routine matters, such as the ratification of the appointment of our independent registered public accounting firm, without instructions from the beneficial owner of those shares. As a result, we do not expect any broker non-votes in connection with the ratification of our independent registered public accounting firm.

## **Default Voting**

A proxy that is properly completed and returned will be voted at the Annual Meeting in accordance with the instructions on the proxy. If you properly complete and return a proxy, but do not indicate any contrary voting instructions, your shares will be voted in accordance with the board's recommendations, which are as follows:

FOR the election of the eight persons named in this proxy statement as the board's nominees for election as directors;

FOR the approval of the amendment to the BIO-key International, Inc. 2015 Equity Incentive Plan;

FOR the ratification of the selection of Rotenberg Meril Solomon Bertiger & Guttilla, P.C. as our independent registered public accounting firm for the year ending December 31, 2019;

FOR the approval, on an advisory basis, of our executive compensation; and

FOR approval of authority to transact such other business as may properly come before the Annual Meeting.

If any other business properly comes before the stockholders for a vote at the Annual Meeting, your shares will be voted at the discretion of the holders of the proxy. The board knows of no matters, other than those previously stated herein, to be presented for consideration at the Annual Meeting.

## **How to Revoke**

Any person giving a proxy in the form accompanying this proxy statement has the power to revoke it at any time before its exercise. The proxy may be revoked by filing with the Secretary of the Company an instrument of revocation or a duly executed proxy bearing a later date, or by electing to vote in person at the Annual Meeting. A stockholder who attends the Annual Meeting need not revoke the proxy and vote in person unless he or she wishes to do so. The mere presence at the Annual Meeting of the person appointing a proxy does not, however, revoke the appointment. If you are a stockholder whose shares are not registered in your own name, you will need additional documentation from your record holder to vote personally at the Annual Meeting.

### **Expenses of Solicitation**

We will bear all costs incurred in the solicitation of proxies, including the preparation, printing and mailing of the Notice of Annual Meeting of Stockholders, proxy statement and the related materials. In addition to solicitation by mail, our directors, officers and employees may solicit proxies personally or by telephone, e-mail, facsimile or other means, without additional compensation.

### **Stockholder List**

A list of stockholders entitled to vote at the Annual Meeting will be available for inspection at the Annual Meeting and at our corporate offices located at 3349 Highway 138, Building A, Suite E, Wall, NJ 07719 beginning June 3, 2019, during normal business hours for examination by any stockholder registered on our stock ledger as of the record date for any purpose germane to the Annual Meeting.

### **Householding/Delivery of Documents to Stockholders**

The SEC rules permit registrants to adopt a procedure called “householding.” Under this procedure, stockholders of record who have the same address and last name will receive only one set of proxy materials, unless one or more of these stockholders notifies the registrant that they wish to continue receiving individual sets. This procedure reduces printing costs and postage fees incurred by the registrant.

We have not adopted this householding procedure with respect to our record holders; however, a number of brokerage firms have instituted householding which may impact certain beneficial owners of our common stock. If your family has multiple accounts by which you hold common stock, you may have received a householding notification from your broker. Please contact your broker directly if you have any questions, require additional copies of the proxy materials, or wish to revoke your decision to household, and thereby receive multiple sets. Those options are available to you at any time.

Beginning on or about May 3, 2019, we mailed to our stockholders our Annual Report on Form 10-K for the year ended December 31, 2018, which includes our audited consolidated financial statements, together with these proxy materials.



**PRINCIPAL STOCKHOLDERS****Common Stock**

The following table sets forth, as of April 22, 2019, information with respect to the securities holdings of all persons that we, pursuant to filings with the SEC and our stock transfer records, have reason to believe may be deemed the beneficial owner of more than 5% of our common stock. The following table also sets forth, as of such date, the beneficial ownership of our common stock by all of our current officers and directors, both individually and as a group.

The beneficial owners and amount of securities beneficially owned have been determined in accordance with Rule 13d-3 under the Exchange Act and, in accordance therewith, include all shares of our common stock that may be acquired by such beneficial owners within 60 days of April 22, 2019 upon the exercise or conversion of any options, warrants or other convertible securities. This table has been prepared based on 14,071,688 shares of common stock outstanding on April 22, 2019.

<b><u>Name and Address of Beneficial Owner (1)</u></b>	<b>Amount and Nature of Beneficial Ownership</b>	<b>Percent of Class</b>
Michael W. DePasquale	271,529 (2)	1.9%
Cecilia Welch	122,083 (3)	*
Mira LaCous	96,875 (4)	*
Thomas Gilley	31,758 (5)	*
Thomas E. Bush, III	26,372 (5)	*
Pieter Knook	18,659 (6)	*
Robert J. Michel	22,071 (6)	*
Fabian Shin	4,743 (7)	*
Wong Kwok Fong (Kelvin)	4,390,708 (8)	31%
Yao Jianhui	4,258 (9)	*
Micron Technology Development Limited	2,178,484 (10)	15.5%
Giant Leap International, Ltd.	958,289 (11)	6.8%
All officers and directors as a group (10) persons	4,989,056	34.1%

\* Less than 1%

(1) Unless otherwise indicated, the address of each person listed below is c/o BIO-key International, Inc., 3349 Highway 138, Building A, Suite E, Wall, NJ 07719.

(2)

- Includes 261,112 shares issuable on exercise of options. Does not include 138,891 shares issuable upon exercise of options subject to vesting.
- (3) Consists of shares issuable upon exercise of options. Does not include 85,001 shares issuable upon exercise of options subject to vesting.
- (4) Consists of shares issuable upon exercise of options. Does not include 54,168 shares issuable upon exercise of options subject to vesting.
- (5) Includes 12,374 shares issuable on exercise of options. Does not include 6,835 shares issuable upon exercise of options subject to vesting.
- (6) Includes 7,165 shares issuable on exercise of options. Does not include 6,835 shares issuable upon exercise of options subject to vesting.
- (7) Includes 499 shares issuable on exercise of options. Does not include 3,501 shares issuable upon exercise of options subject to vesting. The address of Mr. Shin is Flat B, 23/F, Tower 2B, 19 Tong Yin Street, The WINGS IIIA, Tseung Kwan O New Territories, Hong Kong.
- (8) Includes 111,110 shares issuable on exercise of options. Does not include 105,558 shares issuable upon exercise of options subject to vesting. The address of Kelvin is Flat C, 27/F, Block 5, Grand Pacific Views, Siu Lam, Hong Kong N7.
- (9) Includes 499 shares issuable of exercise of options. Does not include 1,001 shares issuable upon exercise of options subject to vesting. Does not include 958,289 shares of common stock owned of record by Giant Leap International, Ltd, or 2,178,484 shares of common stock owned of record by Micron Technology Development Limited. Also does not include 88,875 shares of common stock owned by China Goldjoy Group Limited. Giant Leap International Ltd is an indirect wholly-owned subsidiary, and Micron Technology Development Limited is an indirect majority-owned subsidiary of China Goldjoy Group Limited. As the chairman of the board of directors of China Goldjoy Group Limited, Mr. Yao shares voting and dispositive power over these shares. The address of Mr. Yao is Suites 2601-2, 26/F Tower 2, Nina Tower, 8 Yeung UK Road, Tsuen Wan, Hong Kong TWTL 353.
- (10) The address of Micron Technology Development Limited is Unit 1903, 19/F, Tower 2, Lippo Centre NO. 89 Queensway, Hong Kong
- (11) The address of Giant leap International, Ltd. is Cricket Square, Hutchins Drive P.O. Box 2681 Grand Cayman, Cayman Islands KY7-1111.
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## **PROPOSAL 1: ELECTION OF DIRECTORS**

Our board of directors is presently comprised of eight members who hold office until each director's successor is elected and qualified, or until such director's earlier resignation or removal. Each nominee for director has been nominated for a one-year term to serve until the 2020 Annual Meeting of Stockholders and until their successors are elected and have qualified.

Our nominating and corporate governance committee recommended Messrs. DePasquale, Wong, Michel, Bush, Knook, Gilley, Jianhui and Shin as nominees to our board of directors. Each of the nominees for election is currently a director of the Company. If elected at the Annual Meeting, each of the nominees would serve until the 2020 Annual Meeting of Stockholders and until his successor is duly elected and qualified, or until such director's earlier death, resignation or removal.

The nominees have consented to being nominated and have expressed their intention to serve if elected. We have no reason to believe that the nominees will be unable to serve if elected to office and, to our knowledge, the nominees intend to serve the entire term for which election is sought. In the event any of the nominees recommended by our nominating and corporate governance committee should become unable to serve, or for good cause will not serve, as a director, it is intended that votes will be cast for a substitute nominee designated by the board of directors or the board of directors may elect to reduce its size. Only the nominees or substitute nominees designated by the board of directors will be eligible to stand for election as directors at the Annual Meeting.

### **Nominees for Board of Directors**

We believe that our board of directors should be composed of individuals with sophistication and experience in many substantive areas that impact our business. We believe that experience, qualifications, or skills in the following areas are most important: technology applications, development, and distribution; accounting and finance; government affairs; design, innovation and engineering; strategic planning; human resources and development practices; and board practices of other corporations. We believe that our current board members possess the professional and personal qualifications necessary for board service, and have highlighted particularly noteworthy attributes for each board member below. The principal occupation, business experience for at least the past five years, and the age as of April 22, 2019, of each director nominee is included below.

**Michael W. DePasquale**, 64, has served as our Chief Executive Officer and a Director since January 3, 2003, and Chairman of the Board since January 29, 2014. He served as Co-Chief Executive Officer of the Company from July 2005 to August 2006. Mr. DePasquale brings more than 30 years of executive management, sales and marketing experience to the Company. Prior to joining us, Mr. DePasquale served as the President and Chief Executive Officer



of Prism eSolutions, Inc., a Pennsylvania-based provider of professional consulting services and online solutions for ISO-9001/14000 certification for customers in manufacturing, healthcare and government markets, since February 2001. From December 1999 through December 2000, Mr. DePasquale served as Group Vice President for WRC Media, a New York-based distributor of supplemental education products and software. From January 1996 until December 1999, Mr. DePasquale served as Senior Vice President of Jostens Learning Corp., a California-based provider of multimedia curriculum. Prior to Jostens, Mr. DePasquale held sales and marketing management positions with McGraw-Hill and Digital Equipment Corporation. Mr. DePasquale earned a Bachelor of Science degree from the New Jersey Institute of Technology. He serves on the Board of Directors and as Treasurer of the International Biometrics and Identification Industry Association. We believe Mr. DePasquale's qualifications to sit on the board of directors include his extensive executive management experience in the technology sector and biometric industry expertise which strengthen the board's collective qualifications, skills and experience.

**Wong Kwok Fong (Kelvin)**, 55, has served as a Director of the Company since December 4, 2015, as Managing Director of our Hong Kong Subsidiary since August 2016, and as Co-Chairman of the Board of Directors since March 2019. He is the co-founder of China Goldjoy Group (previously World Wide Touch Technology Holdings Limited), a company listed on The Stock Exchange of Hong Kong. From 1997 until August, 2015, Mr. Wong served as the Chairman of China Goldjoy Group and served as its Chief Technology Officer through October 2016. During this time, Kelvin played a significant role in the substantial growth of the business. Kelvin brings over 15 years of senior management experience in manufacturing, supply chain, and marketing functions in the electronics and technology industries, including establishing manufacturing plants in Hong Kong and China, and building an extensive network in the electronics and technology industries. We believe Kelvin's qualifications to sit on the board of directors include his substantial experience in the technology industry, including biometrics and payment systems, and serving the Asian markets, which broaden and strengthen the board's collective qualifications, skills, and experience.

**Robert J. Michel**, 62, has served as a Director of the Company since April 10, 2017. He has over 30 years of accounting and financial management experience. Since September, 2018, he has served as the Chief Financial Officer of Daxor Corporation (NYSE MKT: DXR), a medical device manufacturing company specializing in blood volume analysis. Prior to Daxor, from November, 2017 until September 2018, Mr. Michel served as the CFO of Roadway Moving, Inc., a transportation, moving and storage company located in New York City. Immediately prior to Roadway Moving, Inc., Mr. Michel served as a consultant with Feuer & Orlando, LLP, a New York City based CPA firm, from May, 2016 until November 2017. From 2009 until March, 2016, Mr. Michel was the Chief Financial Officer of Asta Funding, Inc. (Nasdaq: ASFI), a diversified financial services company operating in five reportable segments in the United States, with the consumer receivables segment also operating in South America. Mr. Michel was responsible for all financial matters and SEC reporting. From 2004 until 2009, Mr. Michel served as the Controller and the Director of Financial Reporting and Compliance for Asta Funding. Mr. Michel is a certified public accountant, earned a MBA in Taxation from St. John's University, and a BS in Business Administration from Villanova University. Mr. Michel gained his public accounting experience at Price Waterhouse in New York, the predecessor firm of pwc. We believe Mr. Michel's qualifications to sit on the board of directors include his substantial experience in accounting and financial management for public companies which provide the board with a deep knowledge of financial and SEC reporting and strengthen the board's collective qualifications, skills, and experience.

**Thomas E. Bush, III**, 66, has served as a Director of the Company since January 29, 2014. Since 2009, Mr. Bush has provided business consulting services through his firm, Tom Bush Consulting. Prior to that, Mr. Bush served with the Federal Bureau of Investigation for over 33 years. Mr. Bush joined the FBI in September 1975, ultimately becoming the Director of the CJIS division, with over 2,500 employees and a budget of approximately one billion dollars. Mr. Bush is known for providing critical services in support of the criminal justice community, including two significant IT projects, Next Generation Identification and N-Dex, which were awarded by CJIS during his tenure at the FBI. Mr. Bush has received many awards during his career, most notably a Presidential Rank Award for Meritorious Service in 2007. We believe Mr. Bush's qualifications to sit on the board of directors include his extensive experience in law enforcement, security matters, and the use of biometric technologies in the government sector, which provide the board with a unique perspective on security and public sector matters.

**Pieter Knook**, 60, has served as a Director of the Company since May 2, 2016. Mr. Knook has over 30 years of experience in mobility and software technology in Europe, Asia and the United States. Since 2010, Mr. Knook has served on the boards of a number of private equity backed and publicly traded early stage technology companies, including Altitude Angel in Reading, Pulsant in the UK, and Coromatic in Sweden. Mr. Knook served as the Director of Internet Services at Vodafone Group in London from March 2008 through October 2010. Prior to joining Vodafone, Mr. Knook spent 18 years at Microsoft. As President of Microsoft Asia from 1997 to 2001, Mr. Knook led the company's efforts in opening and expanding Asian markets. He subsequently served as Senior Vice President of Microsoft's mobile communication business from 2001 through 2008. We believe Mr. Knook's qualifications to sit on the board of directors include his extensive industry experience, particularly in serving the Asian markets, which further broaden and strengthen the board's collective qualifications, skills, and experience.

**Thomas Gilley**, 59, has served as a Director of the Company since January 29, 2014. Mr. Gilley is an entrepreneur, investor and advisor for mobile and connected product (IoT) industry, digital media, and social computing. After founding his Enterprise Software IoT company in 2012 and selling it in 2016, Mr. Gilley has been making

investments in early stage technology companies and serving as a growth strategy advisor to companies in the connected industry. Mr. Gilley was previously employed at Apple Computer, in the Advance Technology Group, Portable Products Group and Strategy Advisor from 1988 to 1996. Before and after Apple, Mr. Gilley founded several successful companies including PicoStar, a Silicon Valley incubator-technology investment company, and an on-demand web media company he sold to Vignette. Mr. Gilley acted as CTO throughout the transaction until the company's ultimate acquisition by OpenText. We believe Mr. Gilley's qualifications to sit on the board of directors include his substantial experience in starting, operating and financing technology companies which provides the board with a deep knowledge of the sales and development cycles applicable to growth businesses in the technology industry.

**Yao Jianhui**, 47, has served as a Director of the Company since December 4, 2015. He has served as the Chairman of the Board of Directors and Chief Executive Officer of the China Goldjoy Group Ltd., a company listed on The Stock Exchange of Hong Kong, since August 2015. Since June 2006, Mr. Yao has served as the Chairman of the Board of Directors of Baoneng Holding (China) Co. Ltd., a company principally engaged in property development. From July 2010 to October 2014, Mr. Yao was the General Manager and Chairman of the Board of Directors of Baocheng Investment Co. Ltd., a company listed on Shanghai Stock Exchange principally engaged in the manufacturing of cables as well as the hotel and trading business. Mr. Yao has held senior management positions with a number of enterprises and listed companies across a wide range of industries including food, construction materials, real estate, commerce, agriculture and forestry, logistics, technology and finance. We believe Mr. Yao's qualifications to sit on the board of directors include his extensive industry experience, particularly in serving the Asian markets, which further broaden and strengthen the board's collective qualifications, skills, and experience.

**Fabian Shin**, 47, was appointed as Director of the Company on November 20, 2017. He is currently an independent non-executive director of several Hong Kong-listed companies including: iron ore mining company Newton Resources Ltd., apparel company Pak Tak Int'l Ltd., computer peripheral manufacturer and financial services provider Huabang Financial Holdings Ltd., supermarket operator China Shun Ke Long Holdings Ltd, and plastic and metal household product designer and manufacturer Lisi Group (Holdings). Mr. Shin has over 25 years of experience in advising companies as an investment banker, financial consultant, and independent director. During his investment banking career, Mr. Shin was Deputy Chief Executive Officer at CMB International Capital Limited and head of investment banking at a unit of the Industrial and Commercial Bank of China. We believe Mr. Shin's qualifications to sit on the board of directors include his business and financial experience, network of relationships and record of accomplishment, which strengthens the board's collective qualifications, skills, and experience.

### **Required Vote**

Approval of this proposal requires the affirmative vote of a plurality of the shares of common stock present in person or by proxy and entitled to vote on this proposal at the Annual Meeting. This means that the eight nominees receiving the highest number of affirmative "FOR" votes will be elected as directors. Votes withheld and broker non-votes are not considered to be votes cast and, accordingly, will have no effect on the outcome of the vote on this proposal.

**The board of directors recommends a vote FOR each of the director nominees.**

## Non-Director Executive Officers and Significant Employee

The following sets forth information regarding our non-director executive officers and key employee:

<u>Name</u>	<u>Age</u>	<u>Position</u>
Cecilia Welch	59	Chief Financial Officer
Mira K. LaCous	57	Chief Technology Officer
James Sullivan	51	Senior Vice President of Global Sales

**Cecilia Welch** has served as the Chief Financial Officer of the Company since December 21, 2009. Ms. Welch joined the Company in 2007 as Corporate Controller. Prior to joining the Company, from January 2006 to December 2006, she was the Controller for Savaje Technologies (acquired by Sun Microsystems), a developer of advanced mobile telephone software. From October 2004 to January 2006, she was Controller for Crystal Systems, a manufacturer of sapphire crystals used for industrial, semiconductor, defense and medical applications. From December 1988 to July 2004, she was the Controller for ATN Microwave (acquired by Agilent Technologies), a manufacturer of automated test equipment. Ms. Welch has a Bachelor's degree in Accounting from Franklin Pierce University.

**Mira K. Lacous** has served as Chief Technology Officer of the Company since March 13, 2014. Prior to her appointment as Chief Technology Officer, she served as Senior Vice President of Technology & Development since 2012, and as our Vice President of Technology and Development since 2000. Ms. LaCous has over 30 years of product/project management, solution architecture, software development, team leadership and customer relations experience, with a background that includes successfully bringing numerous technologies to market, including automated voice response systems, automated building control systems, software piracy protection, intranet training materials and testing, page layout and design software, image scanning software and systems, biometric security, and biometric algorithms. Ms. LaCous is also the author of six US patented technologies, multiple international patents, and other patent pending solutions. Ms. LaCous has a Bachelor's in Computer Science from North Dakota State University.

## Significant Employee

**James Sullivan** has served as Senior Vice President of Strategy and Business Development of the Company since April 2012, in addition to his dual role as Senior Vice President of Global Sales from August 2015 through December of 2016. Mr. Sullivan is a recognized expert in biometric authentication for consumer and mobile applications. During his 11 years with the Company, Mr. Sullivan has directly worked with dozens of the Company's customers, including AT&T, LexisNexis, NCR and McKesson, on large-scale biometric-centered identity management projects that interface daily with millions of corporate and consumer users. Mr. Sullivan holds a Computer Science degree from

Brown University, and has 24 years of experience in IT projects and implementation, including 14 years directly working with identity management solutions at the Company, Computer Associates, Platinum Technology, and Memco Software.

## **CORPORATE GOVERNANCE**

### **Director Independence**

As required under the NASDAQ Marketplace Rules, a majority of the members of a listed company's board of directors must qualify as "independent," as affirmatively determined by the board of directors. Our board considered certain relationships between our directors and us when determining each director's status as an "independent director" under Rule 5605(a)(2) of the NASDAQ Marketplace Rules. Based upon such definition and SEC regulations, we have determined that Robert Michel, Pieter Knook, Thomas Bush, III, Thomas Gilley and Fabian Shin are "independent" under NASDAQ standards.

### **Board Leadership Structure and Role in Risk Oversight**

We do not have a policy regarding the separation of the roles of Chief Executive Officer and Chairman of the Board as our board believes it is in the best interests of the Company to make that determination based on the position and direction of the Company and the membership of the board. The board has determined that having our Chief Executive Officer serve as Chairman is in the best interest of our stockholders at this time. This structure makes the best use of the Chief Executive Officer's extensive knowledge of the Company and our industry, as well as fostering greater communication between our management and the board.

Our corporate governance guidelines provide that the board of directors is responsible for reviewing the process for assessing the major risks facing us and the options for their mitigation. This responsibility is largely satisfied by our audit committee, which is responsible for reviewing and discussing with management and our independent registered public accounting firm our major risk exposures and the policies management has implemented to monitor such exposures, including our financial risk exposures and risk management policies.

## **Committees of the Board of Directors**

### ***Audit Committee***

Our audit committee is comprised of Robert J. Michel (Chair), Fabian Shin and Pieter Knook, all of whom meet the independence standards for purposes of serving on an audit committee established by NASDAQ and under the Exchange Act. Our audit committee (i) assists the board of directors in its oversight of the integrity of our financial statements, compliance with legal and regulatory requirements, and corporate policies and controls, (ii) has the sole authority to retain and terminate our independent registered public accounting firm, approve all auditing services and related fees and the terms thereof, and pre-approve any non-audit services to be rendered by our independent registered public accounting firm, and (iii) is responsible for confirming the independence and objectivity of our independent registered public accounting firm. Our independent registered public accounting firm has unrestricted access to our audit committee. Our board of directors has determined that Robert J. Michel qualifies as an “audit committee financial expert,” as such term is defined in Item 407 of Regulation S-K.

Our audit committee operates under a written charter that is reviewed annually. The charter is available on our website at [www.bio-key.com](http://www.bio-key.com). The audit committee held four meetings during the year ended December 31, 2018.

### ***Compensation Committee***

Our compensation committee is comprised of Thomas Bush, III (Chair) and Robert Michel, both of whom meet the independence standards established by NASDAQ and under the Exchange Act. The compensation committee’s duties include overseeing our overall compensation philosophy, policies and programs. This includes reviewing and analyzing the design and function of our various compensation components, establishing salaries, incentives and other forms of compensation for officers and non-employee directors, and administering our equity incentive plan. In fulfilling its responsibilities, the compensation committee has the authority to delegate any or all of its responsibilities to a subcommittee of the compensation committee.

Our compensation committee operates under a written charter that is reviewed annually. The charter is available on our website at [www.bio-key.com](http://www.bio-key.com). The compensation committee held one meeting during the year ended December 31, 2018.

### ***Nominating and Corporate Governance Committee***

Our nominating and corporate governance committee is comprised of Thomas Gilley (Chair) and Thomas Bush, III, both of whom meet the independence standards established by NASDAQ and under the Exchange Act. The nominating and corporate governance committee is responsible for making recommendations to the board of directors regarding candidates for directorships and the size and composition of the board. In addition, the nominating and corporate governance committee is responsible for overseeing our corporate governance guidelines and reporting and making recommendations to the board concerning corporate governance matters.

Our nominating and corporate governance committee operates under a written charter that is reviewed annually. The charter is available on our website at [www.bio-key.com](http://www.bio-key.com). The nominating and corporate governance committee held one meeting during the year ended December 31, 2018.

### **Considerations in Evaluating Director Nominees**

In selecting nominees for director, without regard to the source of the recommendation, our nominating and corporate governance uses a variety of methods for identifying and evaluating director nominees. In its evaluation of director candidates, our nominating and corporate governance committee may consider, among other things, the current size and composition of our board of directors, the needs of our board of directors, and the respective committees of our board of directors. Some of the qualifications that our nominating and corporate governance committee may consider include, without limitation, issues of character, integrity, judgment, diversity of experience, independence, area of expertise, corporate experience, length of service, leadership skills, potential conflicts of interest, and other commitments. Director candidates must have sufficient time available in the judgment of our nominating and corporate governance committee to perform all board of director and committee responsibilities. In addition, our nominating and corporate governance committee considers all applicable statutory and regulatory requirements and the requirements of any exchange upon which our common stock is listed or to which it may apply in the foreseeable future.

Although our board of directors does not maintain a specific policy with respect to board diversity, we believe that our board of directors should be a diverse body, and our nominating and corporate governance committee considers a broad range of backgrounds and experiences in reviewing candidates for nomination to the board of directors. In making determinations regarding nominations of directors, our nominating and corporate governance committee may take into account the benefits of diverse viewpoints. Our nominating and corporate governance committee also considers these and other factors as it oversees the annual board of director and committee evaluations. After completing its review and evaluation of director candidates, our nominating and corporate governance committee recommends to our full board of directors the director nominees for selection.



## **Stockholder Recommendations for Nominations to the Board of Directors**

Our nominating and corporate governance committee will consider directors candidates recommended by stockholders so long as such recommendations comply with our certificate of incorporation, our bylaws, and applicable laws, rules and regulations, including those promulgated by the SEC. The nominating and corporate governance committee will evaluate such recommendations in accordance with its charter, bylaws, policies and procedures for director candidates, and the regular director nominee criteria described above. This process is designed to ensure that our board of directors includes members with diverse backgrounds, skills and experience, including appropriate financial and other expertise relevant to our business. Eligible stockholders wishing to recommend a candidate for nomination should contact our Secretary in writing. Such recommendations must include information about the candidate, evidence of the recommending stockholder's ownership of our common stock, and written consent from the candidate confirming willingness to serve on our board of directors, if elected. Our nominating and corporate governance committee has discretion to decide which individuals to recommend for nomination as directors.

## **Director Attendance**

During 2018, the board of directors held four meetings. Each of our directors attended at least 75% of all meetings of the board of directors and any committees on which such director was a member, except for Yao Jianhui.

Although we do not have a specific director attendance policy, directors are encouraged to attend the annual meetings of stockholders.

## **Code of Ethics**

We have adopted a Code of Ethics that applies to our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. Our Code of Ethics is designed to deter wrongdoing and promote: (i) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships; (ii) full, fair, accurate, timely and understandable disclosure in reports and documents that we file with, or submit to, the SEC and in our other public communications; (iii) compliance with applicable governmental laws, rules, and regulations; (iv) the prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and (v) accountability for adherence to the code. We intend to disclose amendments or waivers of the Code of Ethics on our website within four business days. Any person may obtain a copy of our Code of Ethics free of charge by sending a written request for such to the attention of the Chief Financial Officer of the Company, 3349 Highway 138, Building A Suite E, Wall, NJ 07719.

## **CERTAIN RELATIONSHIPS AND TRANSACTIONS WITH RELATED PERSONS**

### **Standstill Agreement with Principal Stockholders**

Pursuant to separate securities purchase agreements dated October 29, 2015 and November 11, 2015 with each of Wong Kwok Fong (Kelvin), Micron Technology Development Limited (“Micron”), and Giant Leap International, Ltd. (“Giant Leap”) we issued and sold shares of series A-1 stock to Kelvin and shares of series B-1 stock to Micron and Giant Leap, which were subsequently converted into shares of our common stock. The forgoing agreements contain a standstill provision (the “Standstill”) which prohibits each of these investors either alone or together with any other person, from acquiring additional shares of our common stock or any of our assets, soliciting proxies, or seeking further representation on our board of directors. Kelvin is a director, executive officer, and principal stockholder of the Company. Giant Leap is a principal stockholder of the Company. Yao Jianhui, a director of the Company, is chairman of the board of directors and a principal shareholder of China Goldjoy Group Limited, the parent company of Giant Leap and Micron, and may, therefore, be deemed to have an interest in transactions between us and Giant Leap. Micron is a principal stockholder of the Company.

### **Licensing Agreement with Subsidiaries of China Goldjoy Group Limited.**

On November 11, 2015 our subsidiary BIO-key Hong Kong Limited entered into a license purchase agreement with certain subsidiaries of China Goldjoy Group Limited (“CGG”). The license agreement provides for the grant of a perpetual, irrevocable, exclusive, worldwide, fully-paid license to all software and documentation regarding the software code, toolkit, electronic libraries and related technology currently known as or offered under the Finger Q name, together with perpetual license under all related patents held by the licensors and any other intellectual property rights owned by the licensors related to the forgoing software. We made a one-time payment of \$12,000,000 to the licensors. Yao Jianhu is the chairman and chief executive officer and principal shareholder of CGG and a director of the Company. Kelvin served as the chief technology officer of CGG through October 2016 and is a director, executive officer, and principal stockholder of the Company.

### **Stock Purchase Agreements and Related Transactions with Wong Kwok Fong (Kelvin)**

On April 28, 2017, we issued to Wong Kwok Fong (“Kelvin”), 277,778 shares of common stock at a purchase price of \$3.60 per share for gross cash proceeds of \$1,000,000. In connection with this transaction, we waived the Standstill for the sole purpose of permitting Kelvin to purchase the forgoing securities.

On August 7, 2017, we received written notice from Kelvin of his desire to increase the cap on maximum percentage of shares of common stock issuable upon conversion of his shares of series A-1 stock from 9.99% to 35% of our outstanding shares. In connection with this request, we waived the Standstill for the sole purpose of permitting Kelvin to increase the cap.

On September 22, 2017, we issued 427,778 shares of common stock and warrants to purchase 138,889 shares of common stock to Kelvin for the aggregate purchase price of \$1,540,000, or \$3.60 per share. The purchase price consisted of \$1,000,000 in payment for 277,778 shares of common stock and the conversion of an accrued dividend payable on shares of series A-1 stock owned by Kelvin in the amount of \$540,000 in payment for 150,000 shares of common stock. In connection with this transaction, we waived the Standstill for the sole purpose of permitting Kelvin to purchase the forgoing securities.

On October 17, 2017, Kelvin converted 27,404 shares of series A-1 stock at a conversion price of \$3.60 per share resulting in the acquisition of 761,222 shares of common stock.

On April 3, 2018, Kelvin converted 39,088 shares of series A-1 stock at a conversion price of \$3.60 per share resulting in the acquisition of 1,085,778 shares of common stock. On April 3, 2018, we entered into a securities purchase agreement with Kelvin to purchase 91,820 shares of common stock in consideration of the conversion of an accrued dividend payable on the shares of series A-1 stock owned by Kelvin in the amount of \$330,552 resulting in a per share purchase price of \$3.60. In connection with this transaction, we waived the Standstill Provision for the sole purpose of permitting him to purchase the forgoing securities.

On May 31, 2018, Kelvin converted the 23,508 remaining shares of series A-1 stock held by him at a conversion price of \$3.60 per share resulting in the acquisition of 653,000 shares of common stock. On May 31, 2018, we entered into a securities purchase agreement with Kelvin to purchase 7,073 shares of common stock in consideration of the conversion of an accrued dividend payable on the series A-1 stock in the amount of \$25,463 resulting in a per share purchase price of \$3.60. In connection with this transaction, we waived the Standstill Provision for the sole purpose of permitting him to purchase the forgoing securities.

**Stock Purchase Agreements and Related Transactions with Giant Leap International, Ltd.**

On March 23, 2018, Giant Leap International, Ltd. (“Giant Leap”) converted 29,280 shares of series B-1 stock at a conversion price of \$3.60 per share into 813,334 shares of common stock. On March 23, 2018, we entered into a securities purchase agreement with Giant Leap to purchase 33,102 shares of common stock in consideration of the conversion of an accrued dividend payable on the shares of series B-1 stock owned by Giant Leap in the amount of \$119,167 resulting in a per share purchase price of \$3.60. Giant Leap is a principal stockholder of the Company. Yao Jianhui, a director of the Company, is chairman of the board of directors of China Goldjoy Group Limited, the parent company of Giant Leap, and may, therefore, be deemed to have an interest in the forgoing transactions.

On May 23, 2018, we received a conversion notice from Giant Leap to convert the 720 remaining shares of series B-1 stock held by it at a conversion price of \$3.60 per share. The forgoing conversion resulted in the issuance of 20,000 shares of common stock. On May 23, 2018, we entered into a securities purchase agreement with Giant Leap to purchase 2,978 shares of common stock in consideration of the conversion of an accrued dividend payable on the shares of series B-1 Stock owned by Giant Leap in the amount of \$10,721 resulting in a per share purchase price of \$3.60. In connection with this transaction, we waived the Standstill Provision for the sole purpose of permitting Giant Leap to purchase the forgoing securities.

## Stock Purchase Agreements and Related Transactions with Micron Technology Development Limited

On March 23, 2018, Micron Technology Development Limited (“Micron”) converted 31,140 shares of series B-1 stock at a conversion price of \$3.60 per share into 865,000 shares of common stock. On March 23, 2018, we received notice from Micron of its desire to increase the cap on the maximum percentage of shares of common stock issuable upon conversion of its shares of series B-1 stock from 9.99% to 19.9% of our outstanding shares. In connection with this request, we entered into a securities purchase agreement with Micron to purchase 82,755 shares of common stock in consideration of the conversion of an accrued dividend payable on the shares of series B-1 stock owned by Micron in the amount of \$297,917 resulting in a per share purchase price of \$3.60. In connection with the forgoing transactions, we waived the Standstill for the sole purpose of permitting Micron to purchase the forgoing securities and to increase the cap. Micron is a principal stockholder of the Company.

On May 23, 2018, we received a conversion notice from Micron to convert the 43,860 remaining shares of series B-1 stock held by it at a conversion price of \$3.60 per share. The forgoing conversion resulted in the issuance of 1,218,334 shares of common stock. On May 23, 2018, we entered into a securities purchase agreement with Micron to purchase 12,395 shares of Common Stock in consideration of the conversion of an accrued dividend payable on the shares of series B-1 stock owned by Micron in the amount of \$44,621 resulting in a per share purchase price of \$3.60. In connection with this transaction, we waived the Standstill Provision for the sole purpose of permitting Micron to purchase the forgoing securities.

## EXECUTIVE COMPENSATION

The following table sets forth a summary of the compensation paid to or accrued by our chief executive officer and the two most highly compensated executive officers other than our chief executive officer for the fiscal years ended December 31, 2018 and 2017:

### Summary Compensation Table Summary Compensation Table

<u>Name</u>	<u>Year</u>	<u>Salary (\$)</u>	<u>Bonus \$</u>	<u>Option</u>	<u>All Other</u>	<u>Total (\$)</u>
				<u>Awards (\$)</u> (1)	<u>Compensation (\$)</u> (2)	
<b>Michael W. DePasquale</b>	2018	275,000	-	57,362	739	333,101
Chief Executive Officer	2017	250,000	20,000	571,641	903	842,544

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<b>Cecilia Welch</b>	2018	175,000	-	43,020	616	218,636
Chief Financial Officer	2017	155,000	10,000	297,253	544	462,797
<b>Mira LaCous</b>	2018	213,000	-	21,510	739	235,249
Chief Technology Officer	2017	213,000	-	228,657	739	442,396

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The aggregate grant date fair value of the option awards was estimated using the Black-Scholes option pricing (1) model, with the assumptions listed in Note A to the Company's financial statements. The amount shown in this column represents the grant date fair value calculated under ASC 718.

(2) Consists of life insurance premiums paid by the Company.

## **Narrative Disclosure to Summary Compensation Table**

Compensation for our executives is comprised of three main components: base salary, annual performance-based cash bonus, and long-term equity awards. We do not target a specific weighting of these three components or use a prescribed formula to establish pay levels. Rather, the board of directors and compensation committee considers changes in the business, external market factors and our financial position each year when determining pay levels and allocating between long-term and current compensation for the named executive officers.

Cash compensation is comprised of base salary and an annual performance-based cash bonus opportunity. The committee generally seeks to set a named executive officer's targeted total cash compensation opportunity within a range that is the average of the applicable peer company and/or general industry compensation survey data, adjusted as appropriate for individual performance and internal pay equity and labor market conditions.

In setting cash compensation levels, we favor a balance in which base salaries are generally targeted at slightly below the peer average and a bonus opportunity that is targeted at slightly above the average. Through 2017, the base salary of our CEO has not been increased since 2005. In light of this fact and in order to motivate and retain these key officers, the compensation committee increased the base salaries of our CEO and CFO to \$275,000 and \$175,000, respectively, in 2018.

Performance-based bonuses are generally based upon the achievement of certain revenue milestones established by the compensation committee. The committee believes that this higher emphasis on performance-based cash bonuses places an appropriate linkage between a named executive officer's pay, his or her individual performance and the achievement of specific business goals by placing a higher proportion of annual cash compensation at risk, thereby aligning executive opportunity with the interests of stockholders.

For 2018, we adopted an incentive bonus plan for our named executive officers, our other executive officers, and certain key employees. The plan provided for the payment of a cash bonus equal to 10% of our EBITDA in the event that our 2018 revenue exceeds \$11,900,000, 12% of our EBITDA in the event that our 2018 revenue exceeds \$15,800,000, and 15% of our EBITDA in the event that our 2018 revenue exceeds \$18,900,000. As these targets were not achieved, no bonuses were paid under this plan.

We also include an equity component as part of our compensation package because we believe that equity-based compensation aligns the long-term interests of our named executive officers with those of stockholders. In 2017, we issued options to Mr. DePasquale to purchase 250,000 shares of common stock, to Ms. Welch to purchase 130,000 shares of common stock and to Ms. LaCous to purchase 100,000 shares of common stock. The foregoing options have an exercise price of \$2.65 per share, the last sales price of our common stock on the date of grant, have a term of

seven years, and vest in three equal annual installments commencing March 16, 2018. In 2018, we issued options to Mr. DePasquale to purchase 33,334 shares of common stock, to Ms. Welch to purchase 25,000 shares of common stock, and to Ms. LaCous to purchase 12,500 shares of common stock. The foregoing options have an exercise price of \$1.96 per share, the last sales price of our common stock on the date of grant, have a term of seven years, and vest in three equal annual installments commencing March 23, 2019.

These cash and equity compensation components of pay are supplemented by various benefit plans that provide health, life, accident, disability and severance benefits, most of which are the same as the benefits provided to all of our US based employees.

### ***Employment Agreements***

On March 26, 2010, we entered into an employment agreement, effective as of March 25, 2010, with Michael W. DePasquale to serve as our Chief Executive Officer until March 24, 2011. The agreement automatically renews for subsequent one-year terms, unless the employment relationship is terminated by either party, or modified in accordance with the terms and conditions of the agreement. Under the agreement, Mr. DePasquale's initial annual base salary was \$250,000, subject to adjustment by the compensation committee. In addition to the base salary, a "Performance Bonus" may be awarded to Mr. DePasquale on the basis of the Company achieving certain corporate and strategic performance goals, as determined by the compensation committee in its sole discretion. The employment agreement contains standard and customary confidentiality, non-solicitation and "work made for hire" provisions as well as a covenant not to compete which prohibits Mr. DePasquale from doing business with any current or prospective customer of the Company or engaging in a business competitive with that of the Company during the term of his employment and for the one year period thereafter. This agreement also contains a number of termination and change in control provisions as described under the captions "***Termination Arrangements***" and "***Change in Control Arrangements***" below.



On May 15, 2013, we entered into an employment agreement with Cecilia Welch to serve as our Chief Financial Officer until May 2014. The agreement automatically renews for subsequent one-year terms, unless the employment relationship is terminated by either party, or modified in accordance with the terms and conditions of the agreement. The employment agreement contains standard and customary confidentiality, technical invention provisions, as well as a covenant not to compete, which prohibits Ms. Welch from doing business with any current or prospective customer of the Company or engaging in a business competitive with that of the Company during the term of her employment and for the one year period thereafter. This agreement also contains a number of termination provisions as described under the caption “*Termination Arrangements*” below.

On November 20, 2001, we entered into an employment agreement with Mira LaCous. The agreement automatically renews for subsequent one-year terms, unless terminated by the Company upon at least one month prior written notice which is treated as termination without cause, and provides for a discretionary bonus which shall not exceed 50% of base salary. The agreement contains standard and customary confidentiality, technical invention provisions as well as non-competition and non-solicitation covenants which prohibit Ms. LaCous from doing business with any current or prospective customer of the Company or engaging in any business competitive with that of the Company during the term or her employment and for the one year period thereafter. The agreement also contains a number of termination provisions as described under the caption “*Termination Agreements*” below.

### *Stock Option Grants*

In the event of any change in the outstanding shares of our common stock by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the board deems to be similar circumstances, the number and kind of shares subject to outstanding options, and the exercise price of such options shall be appropriately adjusted in a manner to be determined in the sole discretion of the board. Furthermore, these option agreements contain change of control provisions as described under the caption “*Change in Control Provisions*” below.

### **Outstanding Equity Awards at December 31, 2018**

The following table sets forth for each named executive officer, information regarding outstanding equity awards as at December 31, 2018.

<b>Option Awards</b>	<b>Number of securities</b>	<b>Number of securities</b>	<b>Option</b>	<b>Option expiration date</b>
		<b>underlying unexercised</b>		

<b>Name</b>	<b>underlying unexercised</b>	<b>options unexercisable (#)</b>	<b>Exercise Price (\$)</b>	
	<b>options exercisable (#)</b>			
Michael W. DePasquale	41,667	—	4.18	3/27/2020
	20,834	—	4.92	3/13/2021
	20,834	—	2.16	8/13/2022
	83,333	166,667 (1)	2.65	3/16/2024
	0	33,334 (2)	1.96	3/23/2025
Cecilia Welch	6,250	—	4.18	3/27/2020
	12,500	—	4.92	3/13/2021
	8,334	—	2.16	8/13/2022
	43,333	86,667 (1)	2.65	3/16/2024
	0	25,000 (2)	1.96	3/23/2025
Mira LaCous	5,209	—	4.18	3/27/2020
	12,500	—	4.92	3/13/2021
	8,334	—	2.16	8/13/2022
	33,333	66,667 (1)	2.65	3/16/2024
	0	12,500 (2)	1.96	3/23/2025

(1) The options vest in three equal annual installments commencing March 16, 2018.

(2) The options vest in three equal annual installments commencing March 23, 2019.

## **Narrative Disclosure to Outstanding Equity Awards at December 31, 2018 Table**

The following are the material terms of each agreement, contract, plan or arrangement that provide for payments to one or more of our named executive officers at, following or pursuant to their resignation, retirement or termination, or in connection with a change in control of the Company.

### ***Termination Arrangements***

We may terminate our employment agreement with Mr. DePasquale at any time with or without cause. In the event of termination by us without cause, we will continue to pay Mr. DePasquale his then current base salary for the greater of nine months from the date of such termination or the number of months remaining until the end of the term of the agreement.

We may terminate our employment agreement with Ms. Welch at any time with or without cause. In the event of termination by us without cause, we will continue to pay Ms. Welch her then current base salary for the greater of six months from the date of such termination or the number of months remaining until the end of the term of the agreement.

We may terminate our employment agreement with Ms. LaCous at any time with or without cause. In the event of termination by us without cause, we will continue to pay Ms. LaCous her then current base salary for nine months from the date of such termination.

### ***Change in Control Provisions***

Our 2004 Stock Incentive Plan and 2015 Equity Incentive Plan (the “Plans”) provide for the acceleration of the vesting of unvested options upon a “Change in Control” of the Company. A Change in Control is defined in the Plans to include (i) a sale or transfer of substantially all of the Company’s assets; (ii) the dissolution or liquidation of the Company; (iii) a merger or consolidation to which the Company is a party and after which the prior shareholders of the Company hold less than 50% of the combined voting power of the surviving corporation’s outstanding securities; (iv) the incumbent directors cease to constitute at least a majority of the Board of Directors; or (v) a change in control of the Company which would otherwise be reportable under Section 13 or 15(d) of the Exchange Act. In the event of a “Change In Control” each Plan provides for the immediate vesting of all options issued thereunder. Options issued to executive officers outside of the Plans contain change in control provisions substantially similar to those contained in the Plans.

Our employment agreement with Mr. DePasquale contains a change in control provision that is triggered if Mr. DePasquale is not offered continued employment with us or any successor, or within five years following such Change of Control, we or any successor terminate Mr. DePasquale's employment without cause. If this occurs, then we will pay Mr. DePasquale his base salary and benefits earned but unpaid through the date of termination, and any prorated bonus earned during the then current bonus year, plus two times his then current base salary.

**DIRECTOR COMPENSATION**

The following table sets forth for each director, information regarding their compensation for the year ended December 31, 2018:

<b><u>Name (1)</u></b>	<b>Stock Awards (\$) (2)</b>	<b>Options Awards (\$) (3)</b>	<b>Total (\$)</b>
Thomas E. Bush, III (4)	7,007	2,581	9,588
Thomas Gilley(4)	6,505	2,581	