

BIO KEY INTERNATIONAL INC
Form PRER14A
September 28, 2009
Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of

the Securities Exchange Act of 1934 (Amendment No. 1)

Filed by the Registrant X

Filed by a Party other than the Registrant O

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 §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)(1) 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: \$11,000,000
(5)	Total fee paid: \$613.80

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

(3) Filing Party:

(4) Date Filed:

Table of Contents

**Subject to Completion
Preliminary Proxy Materials, dated September 28, 2009**

To our BIO-key International, Inc. Stockholders:

SPECIAL MEETING OF STOCKHOLDERS YOUR VOTE IS IMPORTANT

You are cordially invited to attend a Special Meeting of Stockholders of BIO-key International, Inc., or BIO-key, to be held on [], 2009 at the offices of Choate, Hall & Stewart LLP, located at Two International Place, Boston, Massachusetts, commencing at [] a.m. Eastern Time]. At the special meeting, BIO-key is seeking your consideration and approval for:

1. the sale of substantially all of the assets of BIO-key's Law Enforcement Division, which we refer to as the Law Enforcement Division, to InterAct911 Mobile Systems, Inc., or InterAct, a wholly-owned subsidiary of InterAct911 Corporation, for an aggregate purchase price of \$11,000,000, which we refer to as the Asset Sale, pursuant to and on the terms and conditions set forth in an Asset Purchase Agreement, dated as of August 13, 2009, which we refer to as the Asset Purchase Agreement;
2. the grant of discretionary authority to BIO-key's board of directors to adjourn or postpone the special meeting, even if a quorum is present, to solicit additional votes to approve the Asset Purchase Agreement and Asset Sale, if necessary; and
3. consideration and transaction of such other business as may properly come before the special meeting or any adjournments or postponements thereof.

As consideration for the Asset Sale, BIO-key will be paid an aggregate of \$11,000,000, of which \$7,000,000 will be paid in cash at the closing of the proposed transaction, subject to customary adjustments as provided in the Asset Purchase Agreement. BIO-key will also receive a promissory note in the original principal amount of \$4,000,000 issued by InterAct, guaranteed by InterAct911 Corporation and one of its owners

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SilkRoad Equity, LLC, a private investment firm that owns 48.75% of InterAct911 Corporation's equity interests on a fully diluted basis (SilkRoad), and secured by a pledge of all of the intellectual property assets of the Law Enforcement Division being transferred to InterAct as part of the Asset Sale. This promissory note is to be paid in three equal installments beginning on the first anniversary of the closing and will bear interest, payable on a quarterly basis, at a rate per annum equal to six percent (6%) compounded annually on the principal sum from time to time outstanding.

If the Asset Purchase Agreement and the Asset Sale are approved at the special meeting and the Asset Sale is consummated, BIO-key will transfer substantially all of its assets, and certain specified liabilities, related to its Law Enforcement Division to InterAct, and BIO-key will continue to exist as a separate public company. Additionally, as consideration for and at the closing of the Asset Sale, SilkRoad will be issued a warrant to purchase for cash up to 8,000,000 shares of BIO-key's common stock, at an exercise price equal to \$0.30 per share. The warrant will expire on the fifth anniversary of the closing of the proposed Asset Sale.

BIO-key's board of directors has carefully reviewed and considered the terms and conditions of the Asset Purchase Agreement and the Asset Sale and has concluded that the Asset Purchase Agreement and the Asset Sale are both in the best interests of BIO-key and its stockholders. BIO-key's board of directors therefore has approved these proposals and recommends that you vote **FOR** each of the proposals set forth in the accompanying proxy statement.

You are also encouraged to review carefully the enclosed proxy statement, as it explains the reasons for the proposals to be voted on at the special meeting and contains other important information, including a copy of the Asset Purchase Agreement, which is attached as Annex A. In particular, please review the matters referred to under Risk Factors starting on page [] of the proxy statement for a discussion of the risks related to the proposed Asset Sale and the business of BIO-key.

YOUR VOTE IS VERY IMPORTANT, REGARDLESS OF THE NUMBER OF SHARES YOU OWN. Approval of the Asset Purchase Agreement and Asset Sale requires the affirmative vote of the holders of a majority of the outstanding shares of BIO-key common stock. Approval of the adjournment proposal requires the affirmative vote of a majority of the stockholders present in person or by proxy of the holders of shares of common stock having a majority of the votes which could be cast by the holders of all outstanding shares of common stock entitled to vote at the special meeting. If you do not (i) submit your proxy, (ii) instruct your

Table of Contents

broker to vote your shares or (iii) vote in person at the special meeting, it will have the same effect as a vote *AGAINST* approval of the Asset Sale pursuant to the terms of the Asset Purchase Agreement and will have no effect on the adjournment proposal.

After careful consideration, the BIO-key board of directors unanimously recommends that you vote *FOR* each of the proposals to be presented at the special meeting.

The board of directors of BIO-key appreciates and encourages stockholder participation in BIO-key's affairs and invites you to attend the special meeting in person. It is important, however, that your shares be represented at the special meeting in any event and for that reason, whether or not you expect to attend the special meeting, please take a moment to complete, date, sign and return the accompanying proxy in the enclosed postage-paid envelope. You may also vote via telephone or over the Internet, as described in the enclosed proxy and in the enclosed proxy statement. Returning the proxy or voting over the telephone or Internet does not deprive you of your right to attend the special meeting and to vote your shares in person. Moreover, you may revoke your proxy at any time before it has been voted. If you hold your shares in street name, you should instruct your broker how to vote in accordance with your instruction card.

We thank you for your cooperation, attention to these matters and continued support and look forward to seeing you at the special meeting.

Sincerely,

Michael W. DePasquale
Chief Executive Officer

Neither the Securities and Exchange Commission nor any state securities regulatory has approved or disapproved the Asset Sale described in this proxy statement or determined if this proxy statement is accurate or adequate. Any representation to the contrary is a criminal offense.

This proxy statement is dated [], 2009, and is first being mailed to BIO-key stockholders on or about [], 2009.

Table of Contents

BIO-key International, Inc.
3349 Highway 138, Building D, Suite B
Wall, New Jersey 07719

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
To be held on [], 2009

To our Stockholders:

A special meeting of stockholders of BIO-key International, Inc., a Delaware corporation, which we refer to as the Company or BIO-key, will be held on [], 2009 at the offices of Choate, Hall & Stewart LLP, located at Two International Place, Boston, Massachusetts, commencing at [] a.m. Eastern Time]. The special meeting is being held to consider and vote upon the following proposals for:

1. the sale of substantially all of the assets of BIO-key's Law Enforcement Division, which we refer to as the Law Enforcement Division, to InterAct911 Mobile Systems, Inc., or InterAct, a wholly-owned subsidiary of InterAct911 Corporation, for an aggregate purchase price of \$11,000,000, which we refer to as the Asset Sale, pursuant to and on the terms and conditions set forth in an Asset Purchase Agreement, dated as of August 13, 2009, which we refer to as the Asset Purchase Agreement;
2. the grant of discretionary authority to BIO-key's board of directors to adjourn or postpone the special meeting, even if a quorum is present, to solicit additional votes to approve the Asset Purchase Agreement and Asset Sale, if necessary; and
3. consideration and transaction of such other business as may properly come before the special meeting or any adjournments or postponements thereof.

After careful consideration, the board of directors of BIO-key has determined that the Asset Sale and the Asset Purchase Agreement are in the best interests of BIO-key and its stockholders. The BIO-key board of directors has approved the Asset Purchase Agreement and the Asset Sale and recommends that you vote **FOR** the approval of the Asset Sale pursuant to the terms of the Asset Purchase Agreement and **FOR** the approval of the adjournment proposal. The proposals are described in more detail in the accompanying proxy statement, which you should read in its entirety before voting.

Only holders of record of BIO-key's common stock at the close of business on [], 2009, are entitled to notice of and to vote at the special meeting or any adjournment or postponement thereof. Approval of the Asset Sale proposal requires the affirmative vote of the holders of a majority of the outstanding shares of BIO-key common stock. Approval of the adjournment proposal requires the affirmative vote of the holders of a majority of the outstanding shares of BIO-key common stock present, either in person or by proxy, and entitled to vote at a special meeting. Therefore, your vote is very important. Your failure to vote your shares will have the same effect as voting against the Asset Sale proposal but will have no effect on the adjournment proposal.

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All stockholders are cordially invited to attend the special meeting in person. To ensure your representation at the special meeting and the presence of a quorum at the special meeting, whether or not you plan to attend the special meeting, please complete, sign and date the enclosed proxy card and return it to BIO-key without delay in the postage-paid envelope enclosed for your convenience or submit your proxy by telephone or the Internet as provided on the proxy card. If a quorum is not reached, BIO-key's proxy solicitation costs are likely to increase.

Should you receive more than one proxy card because your shares are registered in different names and/or addresses, each proxy card should be signed, dated and returned to ensure that all of your shares will be voted. Please also note that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the special meeting, you must obtain from the record holder a proxy issued in your name. If you are present at the special meeting, you may revoke your proxy and vote personally on the matters properly before the special meeting. For specific instructions on voting, please refer to the instructions on the proxy card. Your shares will be voted at the special meeting in accordance with your proxy.

Table of Contents

By order of the Board of Directors,

Michael W. DePasquale
Chief Executive Officer

Wall, New Jersey

[], 2009

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE STOCKHOLDER MEETING TO BE HELD ON [], 2009.

In accordance with new rules approved by the Securities and Exchange Commission, we are providing this notice to our stockholders to advise them of the availability on the Internet of our proxy materials related to our special meeting. The new rules allow companies to provide access to proxy materials in one of two ways. Because we have elected to utilize the full set delivery option, we are delivering our proxy materials to our stockholders under the traditional method, by providing paper copies, as well as providing access to our proxy materials on a publicly accessible Web site.

Our proxy statement and proxy are enclosed and are also available on at [http://\[\]](http://[]).

YOUR VOTE IS IMPORTANT.

IMPORTANT: WHETHER OR NOT YOU PLAN TO ATTEND THE SPECIAL MEETING, YOU ARE URGED TO VOTE YOUR SHARES AS SOON AS POSSIBLE SO THAT YOUR SHARES CAN BE VOTED AT THE SPECIAL MEETING IN ACCORDANCE WITH YOUR INSTRUCTIONS ON THE PROXY CARD. PLEASE VOTE BY (1) TELEPHONE, (2) USING THE INTERNET OR (3) COMPLETING AND PROMPTLY RETURNING THE ENCLOSED PROXY CARD IN THE ENVELOPE PROVIDED.

Table of Contents

TABLE OF CONTENTS

	Page
<u>SUMMARY</u>	2
<u>Parties to the Asset Purchase Agreement</u>	2
<u>Relationship Between BIO-key and InterAct</u>	2
<u>The Asset Purchase Agreement</u>	2
<u>Consideration to be Received</u>	3
<u>BIO-key's Reasons for the Asset Sale</u>	3
<u>Recommendation of the BIO-key Board of Directors</u>	3
<u>Opinion of Kaufman Bros. L.P. to the Board of Directors of BIO-key</u>	3
<u>Purpose of the Asset Sale</u>	4
<u>Effects of the Asset Sale</u>	4
<u>Transaction Documents</u>	4
<u>Risk Factors</u>	5
<u>BIO-key Stockholders Meeting; Vote Required for Approval of the Asset Sale</u>	5
<u>Interests of Executive Officers and Employees of BIO-key in the Asset Sale</u>	5
<u>Share Ownership of BIO-key Directors and Executive Officers</u>	5
<u>Dilution of Existing BIO-key Stockholders</u>	6
<u>Material United States Federal Income Tax Consequences of the Asset Sale</u>	6
<u>Accounting Treatment</u>	6
<u>Dissenters' Rights</u>	6
<u>Regulatory Matters</u>	6
<u>Our Public Accountants' Presence at the Special Meeting</u>	6
<u>Reason to Approve the Adjournment of the Special Meeting</u>	6
<u>Recommendation to Stockholders</u>	6
<u>Stockholder Vote Required</u>	6
<u>QUESTIONS AND ANSWERS ABOUT THE ASSET SALE AND THE SPECIAL MEETING</u>	7
<u>RISK FACTORS</u>	13
<u>CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS</u>	20
<u>ADDITIONAL INFORMATION RELATING TO THE SPECIAL MEETING OF THE STOCKHOLDERS OF BIO-KEY</u>	21
<u>When and Where the Special Meeting Will Be Held</u>	21
<u>Other Business</u>	21
<u>Which Stockholders May Vote</u>	21
<u>How Do BIO-key Stockholders Vote</u>	21
<u>Quorum and Vote Required to Approve Each Proposal</u>	21
<u>Abstentions; Broker Non-Votes</u>	21
<u>Revocability of Proxies</u>	22
<u>Solicitation of Proxies and Expenses of Solicitation</u>	22
<u>Dissenters' Rights</u>	22
<u>Internet Availability of Proxy Materials</u>	22
<u>Assistance</u>	22
<u>PROPOSAL ONE THE ASSET SALE PROPOSAL</u>	23
<u>Background of the Asset Sale</u>	23
<u>BIO-key's Reasons for the Asset Sale</u>	24
<u>Risks of the Asset Sale</u>	25

<u>Recommendation of the BIO-key Board of Directors</u>	25
<u>Opinion of Kaufman Bros. L.P. to the Board of Directors of BIO-key</u>	25
<u>Purpose of the Asset Sale</u>	30
<u>Effects of the Asset Sale</u>	30
<u>Relationship between BIO-key and InterAct</u>	30
<u>Interests of Executive Officers and Employees of BIO-key in the Asset Sale</u>	30
<u>Dissenters Rights</u>	30

Table of Contents

<u>Dilution of Existing BIO-key Stockholders</u>	30
<u>Material United States Federal Income Tax Consequences of the Asset Sale</u>	31
<u>Regulatory Matters</u>	31
<u>Accounting Treatment</u>	31
<u>Our Public Accountants - Presence at the Special Meeting</u>	31
<u>PROPOSAL ONE - ASSET SALE</u>	32
<u>The Asset Sale</u>	32
<u>Consideration to be Received</u>	32
<u>Completion of the Asset Sale</u>	33
<u>Representations and Warranties</u>	33
<u>BIO-key's Conduct of Business Before Closing of the Asset Sale</u>	35
<u>Obligation of the BIO-key Board of Directors with Respect to Its Recommendation and Holding a Stockholders Meeting</u>	35
<u>Standstill</u>	36
<u>Conditions to Obligations to Complete the Asset Sale</u>	36
<u>Termination; Termination Fee</u>	37
<u>Indemnification</u>	38
<u>Amendment and Waiver</u>	39
<u>Expenses Generally</u>	39
<u>PROPOSAL TWO - THE ADJOURNMENT PROPOSAL</u>	40
<u>INFORMATION ABOUT BIO-KEY</u>	41
<u>Markets</u>	42
<u>Products</u>	43
<u>Current Business Plan</u>	46
<u>Competition</u>	46
<u>Marketing and Distribution</u>	47
<u>Addressing the Market</u>	47
<u>Licensing</u>	48
<u>Intellectual Property Rights</u>	48
<u>Research and Development</u>	49
<u>MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITIONS AND RESULTS OF OPERATIONS</u>	50
<u>QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK</u>	68
<u>CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE</u>	68
<u>SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS</u>	68
<u>OTHER MATTERS</u>	69
<u>HOUSEHOLDING</u>	70
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	70
<u>UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL INFORMATION</u>	71
<u>UNAUDITED FINANCIAL STATEMENTS OF THE LAW ENFORCEMENT DIVISION OF BIO-KEY INTERNATIONAL, INC.</u>	77
<u>Annex A - Asset Purchase Agreement</u>	

Annex B - Opinion of Kaufman Bros. L.P.

Annex C - Form of Promissory Note

Annex D - Form of Warrant

Annex E - Audited Financial Statements of BIO-key International, Inc. included in its Form 10-K for the period ended December 31, 2008

Annex E - Unaudited Financial Statements of BIO-key International, Inc. included in its Form 10-O for the period ended June 30, 2009

Table of Contents

PROXY STATEMENT

FOR THE

SPECIAL MEETING OF STOCKHOLDERS

To Be Held On [], 2009

This proxy statement is provided in connection with the solicitation of proxies by the board of directors of BIO-key International, Inc. (BIO-key or the Company) for a special meeting of stockholders to be held at [a.m. Eastern Time], on [], 2009 at the offices of Choate, Hall & Stewart LLP, located at Two International Place, Boston, Massachusetts, and at any adjournment or postponement thereof. The telephone number at that location is (617) 248-5000. Our principal executive offices are located at 3349 Highway 138, Building D, Suite B, Wall, New Jersey 07719. Our telephone number at our principal executive offices is (732) 359-1100. As used herein, the terms we, us, our and similar terms refer to the Company.

This proxy statement and the accompanying proxy card are expected to be mailed on or about [], 2009 to all stockholders entitled to vote at the special meeting.

Table of Contents

SUMMARY

The following summary highlights selected information from this proxy statement and contains cross references to the more detailed discussions elsewhere in the proxy statement. This summary may not contain all of the information that is important to you. For a more complete description of the Asset Purchase Agreement, the Asset Sale contemplated by the Asset Purchase Agreement and the proposed matters on which you will vote, you should carefully read this entire document and the documents to which we have referred you, including the attached annexes.

THE ASSET SALE

Parties to the Asset Purchase Agreement

BIO-key International, Inc.
3349 Highway 138, Building D, Suite B
Wall, NJ 07719
(732) 359-1100

BIO-key International, Inc. (referred to as "BIO-key" or the "Company") develops and delivers advanced identification solutions and information services to both the private sector and government, including law enforcement departments, and public safety agencies. Our website is www.bio-key.com. The information on our website is not a part of this proxy statement.

Our common stock currently trades on the OTC Bulletin Board under the symbol BKYI. On [], 2009 the closing price of our common stock as reported on the OTC Bulletin Board was \$[].

InterAct911 Mobile Systems, Inc.
102 West Third Street, Suite 750
Winston-Salem, NC 27101

InterAct911 Mobile Systems, Inc., a Delaware corporation (referred to as "InterAct"), is a wholly-owned subsidiary of InterAct911 Corporation. An affiliate of InterAct911 Corporation is Colossus, Incorporated d/b/a InterAct Public Safety Systems, which provides integrated multi-agency, multi-jurisdictional public safety and homeland security systems technology. The InterAct Connections Framework is the foundation upon which customized comprehensive public safety solutions are built and presently used by more than 800 government agencies and private enterprises globally. InterAct Public Safety Systems' advanced Next Generation telephony, computer aided dispatch/mapping, mobile data sharing, and records management systems deliver emergency responders the vital information they need to protect their communities. InterAct Public Safety Systems' website is www.interact911.com. The information on InterAct Public Safety Systems' website is not a part of this proxy statement.

Relationship Between BIO-key and InterAct

(page)

BIO-key and InterAct Public Safety Systems, an affiliate of InterAct, have collaborated on several commercial projects in the past, including commercial arrangements in which products used in the Law Enforcement Division (including elements of the MobileCop®, PocketCop®, MobileRescue, MobileOffice, and InfoServer product lines) have been integrated with those of InterAct Public Safety Systems and sold to law enforcement agencies and other emergency response customers. Outside of those commercial dealings, there are no material relationships among BIO-key and InterAct or any of their respective affiliates other than in respect of the Asset Purchase Agreement and the related ancillary agreements.

The Asset Purchase Agreement

(page)

BIO-key and InterAct have entered into an Asset Purchase Agreement, dated as of August 13, 2009 (referred to as the Asset Purchase Agreement), that contains the terms and conditions of the proposed sale of substantially all of the assets and certain specified liabilities of the Law Enforcement Division to InterAct (referred to as the Asset Sale).

We have attached a copy of the Asset Purchase Agreement as Annex A to this proxy statement. We encourage you to read carefully the Asset Purchase Agreement in its entirety because it is the legal document that governs the Asset Sale.

Table of Contents

Consideration to be Received

(page [], Annex C and Annex D)

As consideration for the Asset Sale, BIO-key will be paid an aggregate of \$11,000,000, of which \$7,000,000 will be paid in cash at the closing of the proposed transaction, subject to customary adjustments as provided in the Asset Purchase Agreement. BIO-key will also receive a promissory note in the original principal amount of \$4,000,000 issued by InterAct, guaranteed by InterAct911 Corporation and one of its owners SilkRoad Equity, LLC, a private investment firm that owns 48.75% of InterAct911 Corporation's equity interests on a fully diluted basis (SilkRoad), and secured by a pledge of all of the intellectual property assets of the Law Enforcement Division being transferred to InterAct as part of the Asset Sale. This promissory note is to be paid in three equal installments beginning on the first anniversary of the closing and will bear interest, payable on a quarterly basis, at a rate per annum equal to six percent (6%) compounded annually on the principal sum from time to time outstanding.

Additionally, as consideration for and at the closing of the Asset Sale, SilkRoad will be issued a warrant to purchase for cash up to 8,000,000 shares of BIO-key's common stock, at an exercise price equal to \$0.30 per share. The warrant will expire on the fifth anniversary of the closing of the proposed Asset Sale.

We have attached a copy of the form of promissory note and the form of warrant as Annex C and Annex D, respectively, to this proxy statement. We encourage you to read carefully the form of promissory note and the form of warrant in their entirety.

For a full description of the consideration to be paid in connection with the Asset Sale, please see The Asset Purchase Agreement Consideration to be Received beginning on page [] of this proxy statement.

BIO-key's Reasons for the Asset Sale

(page [])

BIO-key and InterAct agreed to the acquisition by InterAct of substantially all of the assets and certain specified liabilities of the Law Enforcement Division under the terms of the Asset Purchase Agreement that is described in this proxy statement. In evaluating the Asset Sale and the Asset Purchase Agreement, our board of directors consulted with our management and financial and legal advisors and considered various factors, including the potential risks of the Asset Sale. For the material factors considered by our board of directors in reaching its decision to approve the Asset Purchase Agreement and the Asset Sale, please see BIO-key's Reasons for the Asset Sale, beginning on page [] of this proxy statement.

Recommendation of the BIO-key Board of Directors

(page [])

The BIO-key board of directors has determined that the proposals are advisable, and fair to and in the best interests of BIO-key and its stockholders, and recommends that you vote **FOR** the Asset Sale pursuant to terms of the Asset Purchase Agreement and **FOR** the adjournment proposal.

Opinion of Kaufman Bros. L.P. to the Board of Directors of BIO-key

(page [])

In connection with the Asset Sale, our board of directors has received a written fairness opinion, dated as of August 13, 2009, from BIO-key's financial advisor, Kaufman Bros. L.P. (referred to as Kaufman Bros.), that the consideration of the aggregate purchase price to be received by BIO-key in the Asset Sale is fair, from a financial point of view and as of the date of the opinion, to our shareholders. This opinion is attached as Annex B. The opinion should be read carefully in its entirety for a description of the assumptions made, procedures followed, matters considered and limitations on the review undertaken. Kaufman Bros.' opinion was provided to the BIO-key board of directors in connection with its evaluation of the aggregate purchase price. Kaufman Bros.' opinion does not address any other aspect of the Asset Sale and does not constitute a recommendation to any securityholder as to how such securityholder should vote or act with respect to any matters relating to the Asset Sale or otherwise.

Table of Contents

<p>Purpose of the Asset Sale</p> <p>(page)</p>	<p>The cash received by BIO-key from the Asset Sale will be used by BIO-key to redeem outstanding shares of BIO-key's convertible preferred stock and for general working capital purposes.</p>
<p>Effects of the Asset Sale</p> <p>(page)</p>	<p>If the Asset Purchase Agreement and Asset Sale are approved by our stockholders and the other conditions to closing of the Asset Sale are satisfied or waived, we expect to focus our efforts on the management and development of our biometric business segment. BIO-key will continue as a public company after the closing of the Asset Sale and, therefore, our public reporting obligations and the listing of our common stock on the OTC Bulletin Board will not be affected as a result of completing the Asset Sale.</p>
<p>Transaction Documents</p> <p>(page and Annex A)</p>	
<p><i>Conditions to Obligations to Complete the Asset Sale</i></p> <p>(page)</p>	<p>A number of conditions must be satisfied before the Asset Sale can be completed. These include, among others:</p> <ul style="list-style-type: none"> • the approval of the Asset Sale by BIO-key stockholders; • the absence of any law or order that makes the consummation of the Asset Sale illegal; • the absence of any instituted or pending action or proceeding by any court or other governmental entity prohibiting, making illegal or enjoining, or threatening to make illegal or enjoin the consummation of the transactions contemplated by the Asset Purchase Agreement; • the continued accuracy, in all material respects, of the representations and warranties of the parties; • BIO-key obtaining the consents, waivers, approvals, authorizations, orders or filings required to be obtained or filed; • the performance of compliance in all material respects of each party with all obligations required to be performed or complied with under the Asset Purchase Agreement at or prior to the closing; and • the absence of material adverse changes with respect to the business, results of operations or financial condition of the Law Enforcement Division since August 13, 2009, the date of the Asset Purchase Agreement. <p>Each of BIO-key and InterAct may waive the conditions to the performance of its respective obligations under the Asset Purchase Agreement and complete the Asset Sale even though one or more of these conditions have not been met. BIO-key cannot give any assurance that all of the conditions to the Asset Sale will be either satisfied or waived or that the Asset Sale will occur.</p>
<p><i>Standstill</i></p> <p>(page)</p>	<p>The Asset Purchase Agreement limits BIO-key's ability to solicit or engage in discussions or negotiations with third parties regarding competing transactions involving the Asset Sale prior to the closing of the Asset Sale. Our board of directors may change its recommendation with respect to the Asset Sale or terminate the Asset Purchase Agreement to accept a superior proposal under the criteria and pursuant to the procedures set forth in the Asset Purchase Agreement and after paying InterAct a termination fee as described below.</p>
<p><i>Termination; Termination Fee</i></p> <p>(page)</p>	<p>The Asset Purchase Agreement may be terminated at any time prior to completion of the Asset Sale by action of the board of directors of BIO-key or InterAct, as applicable, either before or</p>

after the requisite approval of the stockholders of BIO-key has been obtained under certain circumstances.

However, if such termination occurs, a termination fee equal to \$1,000,000 will be payable should certain circumstances occur, including, among others, the

Table of Contents

following:

- if one party terminates the Asset Purchase Agreement because the Asset Sale is not closed on or before January 31, 2010, other than as a result of such party's non-compliance under the Asset Purchase Agreement, the non-terminating party would be responsible for such termination fee;
- BIO-key will be responsible for such fee if it fails to obtain stockholder approval of the Asset Sale on or before January 31, 2010;
- either party will be responsible for such fee if a closing condition cannot be satisfied as a result of a material breach of any of its respective representations, warranties, covenants or agreements contained in the Asset Purchase Agreement; and
- BIO-key will be responsible for such fee if it decides to accept a superior alternative transaction proposal from a third party.

Risk Factors

(see page)

In evaluating the Asset Sale proposal, you should carefully read this proxy statement and especially consider the factors discussed in the section entitled "Risk Factors" beginning on page [] of this proxy statement.

BIO-key Stockholders Meeting; Vote Required for Approval of the Asset Sale

(see page)

The special meeting of BIO-key stockholders will be held on [], at [a.m. Eastern Time], at the offices of Choate, Hall & Stewart LLP, Two International Place, Boston, MA 02110. At the special meeting, BIO-key stockholders will be asked to approve the Asset Sale proposal.

Only holders of record of BIO-key common stock at the close of business on [], 2009, the record date, are entitled to notice of and to vote at the special meeting.

Approval of the Asset Sale proposal requires the affirmative vote of the holders of a majority of the outstanding shares of BIO-key common stock.

Interests of Executive Officers and Employees of BIO-key in the Asset Sale

(page)

In considering the recommendation of the BIO-key board of directors with respect to the Asset Sale, BIO-key stockholders should be aware that certain executive officers and employees of BIO-key have interests in the Asset Sale that may be different from, or in addition to, the interests of BIO-key stockholders generally.

These interests include those of Kenneth Souza, the Executive Vice President and General Manager, Law Enforcement of the Company. On October 4, 2008, BIO-key renewed its year-to-year employment agreement with Mr. Souza to serve as Executive Vice President and General Manager, Law Enforcement of the Company. In the event of termination without cause, Mr. Souza shall continue to be paid his 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 his employment agreement.

The board of directors of BIO-key was aware of these interests and considered them, among other matters, in making its recommendation.

Share Ownership of BIO-key Directors and Executive Officers

As of the record date, the directors and executive officers of BIO-key and its affiliates owned and were entitled to vote [] shares of BIO-key common stock, which represents approximately [] % of the BIO-key common stock outstanding on that date.

(page)

Table of Contents

Dilution of Existing BIO-key Stockholders

(page)

If the Asset Sale is completed and if SilkRoad were to exercise its right to exercise its warrant to purchase 8,000,000 shares of BIO-key common stock, the shareholdings of the current BIO-key stockholders will be proportionately diluted due to the issuance of an additional 8,000,000 shares of BIO-key s common stock to SilkRoad.

Material United States Federal Income Tax Consequences of the Asset Sale

(page)

BIO-key stockholders are urged to read the discussion in the section entitled Proposal One The Asset Sale Proposal Material United States Federal Income Tax Consequences of the Asset Sale beginning on page [] of this proxy statement and to consult their own tax advisors as to the United States federal income tax consequences of the Asset Sale, as well as the effect of state, local and foreign tax laws.

Accounting Treatment

(page)

In accordance with accounting principles generally accepted in the United States, or GAAP, InterAct will account for the Asset Sale using the acquisition method of accounting for business combinations.

Dissenters Rights

(page)

There will be no change in your rights as a stockholder as a result of the Asset Sale. Delaware law does not provide for appraisal or other similar rights for dissenting stockholders in connection with the Asset Sale.

Regulatory Matters

(page)

BIO-key does not believe that the Asset Sale will be subject to any regulatory or governmental approvals, aside from certain governmental approvals required under certain of BIO-key s customer contracts that will be assigned to InterAct as part of the Asset Sale.

Our Public Accountants Presence at the Special Meeting

(page)

Representatives of CCR LLP, our public accountants, are expected to be present and to be available to respond to appropriate questions at the special meeting. They will have the opportunity to make a statement if they desire to do so; they have indicated that, as of the date of this proxy statement, they do not.

PROPOSAL 2 APPROVE THE ADJOURNMENT OF THE SPECIAL MEETING, IF NECESSARY, TO SOLICIT ADDITIONAL PROXIES

Reason to Approve the Adjournment of the Special Meeting

(page)

If BIO-key fails to receive a sufficient number of votes to approve Proposal One, BIO-key may propose to adjourn the special meeting for the purpose of soliciting additional proxies to approve any proposal that fails to receive a sufficient number of votes.

Recommendation to Stockholders

(page)

The BIO-key board of directors recommends a vote **FOR** Proposal Two at the special meeting, if necessary.

Stockholder Vote Required

(page)

Approval of the adjournment proposal requires the affirmative vote of the holders of a majority of the outstanding shares of BIO-key common stock present, either in person or by proxy, entitled to vote at the special meeting.

Table of Contents

QUESTIONS AND ANSWERS ABOUT THE ASSET SALE AND THE SPECIAL MEETING

The following are some questions that you, as a stockholder of BIO-key International, Inc., may have regarding the Asset Sale and the special meeting and we have provided brief answers to those questions below. We urge you to read carefully the remainder of this proxy statement because the information in this section may not provide all the information that might be important to you with respect to the proposals being considered at the special meeting. Additional important information is also contained in the annexes to, and the documents incorporated by reference in, this proxy statement.

Q Why am I receiving this proxy statement?

A You are receiving a proxy statement and proxy card because you owned shares of our common stock as of the record date of []. This proxy statement and proxy card relate to our special meeting (and any adjournment thereof) and describe the matters on which we would like you, as a stockholder, to vote.

InterAct911 Mobile Systems, Inc. has agreed to acquire substantially all of the assets and certain specified liabilities of BIO-key relating to the Law Enforcement Division under the terms of the Asset Purchase Agreement described in this proxy statement. Following the completion of the Asset Sale, BIO-key intends to use the sale proceeds (i) to pay the remainder of its outstanding liability (equal to \$1,082,461 plus accrued and unpaid interest) to Longview Special Finance, Inc. and Longview Fund, L.P., (ii) to pay the outstanding amount due under its unsecured promissory note issued to The Shaar Fund, Ltd. (equal to \$1,000,000 plus accrued and unpaid interest), (iii) to redeem all outstanding shares of its Series B and C Convertible Preferred Stock, portions of which are currently held by The Shaar Fund, Ltd., and (iv) for general working capital purposes. In order to complete the Asset Sale, BIO-key stockholders must approve the Asset Sale proposal. BIO-key will hold a special meeting of its stockholders in order to obtain this approval.

Please see Proposal One The Asset Sale Proposal beginning on page II of this proxy statement. A copy of the Asset Purchase Agreement is attached to this proxy statement as Annex A.

Your vote is very important. If you do not either (i) submit your proxy, (ii) instruct your broker how to vote your shares or (iii) vote in person at the special meeting, it will have the effect as a vote AGAINST approval of the Asset Sale proposal.

We encourage you to vote as soon as possible. The enclosed voting materials allow you to vote your BIO-key shares without attending the special meeting. For more specific information on how to vote, please see the questions and answers below and How Do BIO-key Stockholders Vote beginning on page [] of this proxy statement.

Q Why did BIO-key enter into the Asset Purchase Agreement?

A After due consideration of all other alternatives reasonably available to BIO-key, the BIO-key board of directors concluded that the completion of the Asset Sale was the best available alternative reasonably likely to enable BIO-key to satisfy its outstanding liabilities and obligations and to maximize value to its stockholders. These other alternatives included a private placement of securities or the issuance of non-convertible debt and but they were ultimately rejected by the BIO-key board because they would have required significant ongoing dividend or interest obligations. For more information, please see Proposal One The Asset Sale Proposal BIO-key's Reasons for the Asset Sale beginning on page II of this proxy statement.

Q Who is the buyer?

A The buyer is InterAct911 Mobile Systems, Inc., a privately held Delaware corporation (referred to as InterAct) and wholly-owned subsidiary of InterAct911 Corporation, which is also a privately held Delaware corporation, which provides public safety and homeland security technology solutions.

Q What is the purchase price being paid for the Law Enforcement Division?

A As consideration for the Asset Sale, BIO-key will be paid an aggregate of \$11,000,000, of which \$7,000,000 will be paid in cash at the closing of the proposed transaction, subject to customary adjustments as provided in the Asset Purchase Agreement. BIO-key will also receive a promissory note in the original principal amount of \$4,000,000 issued by InterAct, guaranteed by InterAct911 Corporation and one of its owners SilkRoad Equity, LLC, a private investment firm that owns 48.75% of InterAct911 Corporation s equity interests on a fully diluted basis (SilkRoad), and secured by a pledge of all of the intellectual property assets of the Law Enforcement Division being transferred to InterAct as part of the Asset Sale. This promissory note is to be paid in three equal installments beginning on the first anniversary of the closing and will bear interest, payable on a quarterly basis, at a rate per annum equal to six percent (6%) compounded annually on the principal sum from time to time outstanding.

Table of Contents

Additionally, as consideration for and at the closing of the Asset Sale, SilkRoad will be issued a warrant to purchase for cash up to 8,000,000 shares of BIO-key's common stock, at an exercise price equal to \$0.30 per share. The warrant will expire on the fifth anniversary of the closing of the proposed Asset Sale.

Q What assets are being sold by BIO-key?

A The assets BIO-key proposes to sell to InterAct consist of substantially all of the assets used in the Law Enforcement Division other than those specifically excluded under the terms of the Asset Purchase Agreement. The assets to be sold include BIO-key's customer contracts, intellectual property, accounts receivables, equipment, inventories, software, technologies, communication systems and goodwill relating to its Law Enforcement Division. In addition, it is anticipated that BIO-key's lease for its office in Marlborough, Massachusetts will be assigned to InterAct. The assets excluded from the Asset Sale include the rights of BIO-key under or pursuant to the terms of the Asset Purchase Agreement and the related ancillary documents; BIO-key's general ledger, accounting records, minute books, statutory books and corporate seal; BIO-key's personnel records and any other records that BIO-key is required by law to retain in its possession; any right to receive mail and other communications addressed to BIO-key relating to any excluded asset or excluded liability that is not being transferred to InterAct as part of the Asset Sale; the capital stock of BIO-key or any of its subsidiaries; all cash, cash equivalents and bank accounts; all trademarks or other indicia of origin of BIO-key in any words, logos, stylized lettering, other designs and variants thereof BIO-key or BIO-key International; and any refund, abatement or tax credit of, and all other assets comprising receivables or deferred assets or prepayments for, taxes arising or resulting from BIO-key's conduct of the Law Enforcement Division or ownership of the assets to be purchased by InterAct for taxable periods ending on or before the closing date.

Q What liabilities will be assumed by InterAct? What liabilities will not be assumed by InterAct?

A In connection with the Asset Sale, InterAct will assume certain specified liabilities of BIO-key under the terms of the Asset Purchase Agreement, including those accounts payable and accrued and unused vacation and sick time owed to any employee of BIO-key who will work for InterAct starting as of the closing date, which accrued on BIO-key's June 30, 2009 balance sheet or were incurred in the ordinary course of business of the Law Enforcement Division since June 30, 2009 and not discharged as of the closing date; and all liabilities and obligations arising from and after the closing date under the contracts to be purchased by InterAct.

The liabilities InterAct will not assume include, among others, any liability or obligation for BIO-key's taxes that arise as a result of the transactions contemplated by the Asset Purchase Agreement; any liability or obligation relating to employee pensions, benefits or compensation arrangements incurred or accrued prior to the closing date; any pre-closing environmental liability; any liability, lien or obligation relating to any excluded asset; any liability or obligation not incurred in the ordinary course of the business of the Law Enforcement Division; BIO-key's obligation to provide vacation time, sick time, personal days, vacation pay and sick pay to any employee, provided that InterAct will assume and be responsible for any accrued and unused vacation time and sick time owed to the employees of BIO-key who are being transferred to InterAct; any liability resulting from any action, suit, proceeding, order, judgment, decree or investigation of BIO-key or the Law Enforcement Division prior to the closing date; or any liability of BIO-key which may be owed to any agent, broker, finder or investment or commercial banker as a result of the transactions contemplated by the Asset Purchase Agreement.

Q When does BIO-key expect the Asset Sale to be completed?

A BIO-key desires to complete the Asset Sale as soon as practicable and currently expects that the Asset Sale will be completed promptly following the receipt of stockholder approval of the Asset Sale at the special meeting. If the stockholders of BIO-key approve the Asset Sale and the other conditions to closing are satisfied, BIO-key expects that the Asset Sale will close during the fourth quarter of 2009. However, BIO-key cannot predict the exact timing of the completion of the Asset Sale because it is subject to other conditions to closing.

Q What will happen if the Asset Sale is not approved?

A If at the special meeting the number of shares of BIO-key common stock present or represented and voting in favor of the approval of the Asset Sale is insufficient to approve the Asset Sale under Delaware law, the BIO-key board of directors intends to move to adjourn the special meeting in order to solicit additional proxies in favor of the approval of the Asset Sale proposal. If the Asset Sale

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is not approved by BIO-key stockholders at any such adjourned meeting, or, even if it is so approved at the special meeting or any such adjourned meeting, if the other conditions to the closing of the Asset Sale are not satisfied or waived, the Asset Sale will not occur. If the Asset Sale is not approved by BIO-key's stockholders at the special meeting or any adjourned meeting on or prior to January 31, 2010, BIO-key will be obligated to pay InterAct a \$1,000,000 termination fee.

Table of Contents

BIO-key has incurred recurring operating losses and has substantial outstanding liabilities, including a cash settlement payment in the aggregate principal amount of \$2,164,922 to Longview Special Finance, Inc. and Longview Fund, L.P., half of which was paid on July 7, 2009 and the remainder, which accrues interest at seventeen percent (17%) per year, is due on October 31, 2009. BIO-key has also issued an unsecured promissory note in the aggregate principal amount of \$1,000,000 to The Shaar Fund, Ltd., a holder of shares of the Company's Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock, which bears interest at eight percent (8%) per annum and is due and payable in full on November 4, 2009.

If the Asset Sale does not occur, BIO-key anticipates that it would continue to seek to dispose of the assets used in the Law Enforcement Division on terms acceptable to BIO-key's board of directors and, at the same time, enter into discussions with the holders of its outstanding convertible preferred stock to resolve any amounts that may become due to such holders as a result of the mandatory redemption provisions of such preferred stock. BIO-key also anticipates that if it were to be unable to satisfy its obligations to the Longview entities and The Shaar Fund in full on a timely basis, BIO-key would need to reach an agreement with those parties to extend or otherwise amend such obligations.

Please see Risk Factors Risks Related to the Asset Sale beginning on page 16 of this proxy statement for further discussion of the possible consequences if the Asset Sale does not occur.

Q What vote of BIO-key stockholders is required to approve the Asset Sale proposal?

A Approval of the Asset Sale requires the affirmative vote of the holders of a majority of the outstanding shares of BIO-key common stock.

Q How does the BIO-key board of directors recommend that BIO-key stockholders vote on the Asset Sale proposal?

A The BIO-key board of directors recommends that BIO-key stockholders vote **FOR** the Asset Sale pursuant to the terms of the Asset Purchase Agreement. The BIO-key board of directors has determined that the Asset Sale pursuant to the terms of the Asset Purchase Agreement is advisable, fair to and in the best interests of BIO-key and its stockholders. Accordingly, the BIO-key board of directors has approved the Asset Sale. For a more complete description of the recommendation of the BIO-key board of directors, see Proposal One The Assets Sale Proposal BIO-key's Reasons for the Asset Sale beginning on page 16 of this proxy statement and Proposal One The Asset Sale Proposal Recommendation of BIO-key Board of Directors beginning on page 16 of this proxy statement.

Q Do BIO-key's directors and officers have any interest in the Asset Sale?

A On October 4, 2008, BIO-key renewed its year-to-year employment agreement with Kenneth Souza to serve as Executive Vice President and General Manager, Law Enforcement of the Company. InterAct has agreed to assume BIO-key's obligations to Mr. Souza under that employment agreement following the Asset Sale and it is anticipated that Mr. Souza will become an employee of InterAct. For more information, please see Proposal One The Asset Sale Proposal Interests of Executive Officers and Employees of BIO-key in the Asset Sale beginning on page 17 of this proxy statement.

Q Are there any risks related to the Asset Sale?

A Yes. You should carefully review the section entitled Risk Factors beginning on page 17 of this proxy statement.

Q What are the United States federal income tax consequences of the Asset Sale?

A For United States federal income tax purposes, the Asset Sale will not be taxable directly to BIO-key's stockholders. For United States federal income tax purposes, the sale of BIO-key's assets pursuant to the terms of the Asset Purchase Agreement will be treated as a taxable asset sale, with BIO-key as the seller and InterAct as the buyer. Accordingly, BIO-key expects to recognize taxable gain

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as a result of the Asset Sale. Although BIO-key has net operating loss carryforwards that potentially could offset a portion of such gain, such loss carryforwards could be unavailable, in whole or in part, due to potentially applicable limitations under the Internal Revenue Code.

Tax matters are complicated and the tax consequences of the transactions discussed in this proxy statement will depend on certain factual matters not addressed herein. You should consult with your own tax advisor to fully understand the tax consequences of the Asset Sale.

Table of Contents

You are urged to read the discussion in the sections entitled "Proposal One - The Asset Sale Proposal - Material United States Federal Income Tax Consequences of the Asset Sale" beginning on page [] of this proxy statement.

Q Am I entitled to appraisal rights or dissenters' rights in connection with the Asset Sale proposal?

A No. As a BIO-key stockholder, you will not be eligible for appraisal rights or dissenters' rights in connection with the Asset Sale, even if you abstain from voting or vote against the Asset Sale proposal.

Q Will I still be able to sell my shares of BIO-key common stock following the closing of the Asset Sale?

A Yes. Although no assurance can be given as to whether the Asset Sale will affect the trading market for BIO-key common stock, you will be able to sell your shares of BIO-key common stock on the OTC Bulletin Board immediately following the closing in the same manner that you could today.

Q Am I being asked to vote on anything else?

A Yes. The BIO-key board of directors is asking you to authorize it to adjourn or postpone the special meeting to a date not later than January 31, 2010, if the voting power of holders of BIO-key common stock represented and voting in favor of approval of the Asset Sale proposal is insufficient to approve the Asset Sale proposal under Delaware law. The BIO-key board of directors recommends that you vote **FOR** the adjournment proposal.

Q Why is BIO-key seeking my vote on the adjournment proposal?

A Adjourning or postponing the special meeting to a later date will give BIO-key additional time to solicit proxies to vote in favor of approval of the Asset Sale proposal. Consequently, BIO-key is seeking your approval of the adjournment proposal to ensure that, if necessary, BIO-key will have enough time to solicit the required votes for the Asset Sale proposal.

Q What vote of BIO-key stockholders is required to approve the adjournment proposal?

A For us to adjourn the special meeting, if necessary, to solicit additional proxies, the affirmative vote of a majority of the outstanding shares of our common stock present or represented by proxy at the special meeting and entitled to vote on the matter is required.

Q When and where will the special meeting be held?

A The special meeting will be held at the offices of Choate, Hall & Stewart LLP, Two International Place, Boston, MA 02110 on [], 2009, at [] a.m. Eastern Time].

Q Who is entitled to notice of and to vote at the special meeting?

A Only holders of record of BIO-key common stock outstanding as of the close of business on [], 2009, which we refer to as the record date, are entitled to notice of and vote at the special meeting. As of the close of business on the record date, there were [] shares of BIO-key common stock outstanding and entitled to vote at the special meeting.

Q Who can attend and vote at the special meeting?

A All holders of record of BIO-key common stock as of the close of business on the record date are entitled to receive notice of, and to vote at, the special meeting.

Q What do I need to do now in order to vote on the proposals being considered at the special meeting?

A You should carefully read and consider the information contained in the proxy statement and you may vote by proxy by completing, signing, dating and returning the enclosed proxy card in the accompanying pre-addressed, postage-paid envelope, by submitting a proxy over the Internet or by telephone following the instructions on the enclosed proxy card. If you sign, date and mail your proxy card without identifying how you want to vote, your proxy will be voted **FOR** the Asset Sale proposal pursuant to the terms of the Asset Purchase Agreement and **FOR** the adjournment proposal.

You may also vote by appearing at the special meeting and voting in person. If you plan to attend the special meeting and

Table of Contents

wish to vote in person, you will be given a ballot at the special meeting. Whether or not you plan to attend the special meeting, you should submit your proxy card or voting instruction form as described in this proxy statement.

Q Can I access the proxy materials electronically?

A This Proxy Statement and the proxy card are available at [www.].

Q If my BIO-key shares are held in street name by my broker, will the broker vote the shares on my behalf?

A If your shares are held in a stock brokerage account or by a bank or other nominee, then you are considered the beneficial owner of shares held in your street name and these proxy materials are being forwarded to you by your broker, bank or other nominee, who is considered the stockholder of record with respect to those shares. As the beneficial owner, you have the right to direct your broker, bank or other nominee on how to vote and are also invited to attend the special meeting. However, since you are not the stockholder of record, you may not vote these shares in person at the special meeting, unless you request a proxy from your broker, bank or other nominee. Your broker, bank or other nominee has enclosed a voting instruction card for you to use in directing the broker, bank or other nominee regarding how to vote your shares.

Brokers who hold shares in street name for customers have the authority to vote on routine proposals when they have not received instructions from beneficial owners. However, brokers are precluded from exercising their voting discretion with respect to approval of non-routine matters, such as the approval of the Asset Sale proposal and, as a result, absent specific instructions from the beneficial owner of such shares, brokers will not vote those shares. This is referred to as a broker non-vote. Broker non-votes will be considered as present for purposes of determining a quorum, but are not considered as voting power present with respect to the proposals. Broker non-votes will have the effect of a vote **AGAINST** the Asset Sale and will have no effect on the adjournment proposal. Your broker will send you information to instruct it on how to vote on your behalf. **If you do not receive a voting instruction card from your broker, please contact your broker promptly to get the voting instruction card. Your vote is important to the success of the proposals.** BIO-key encourages all of its stockholders whose shares are held in street name to provide their brokers with instructions on how to vote. Please see Additional Information Relating to the Special Meeting of the Stockholders of BIO-key Abstentions; Broker Non-Votes beginning on page [] of this proxy statement.

Q What will happen if I abstain from voting or fail to vote?

A Your abstention will have the same effect as a vote **AGAINST** the approval of the Asset Sale and the adjournment proposals. Failure to attend and vote at the special meeting or to submit your proxy using one of the available methods will have the same effect as a vote **AGAINST** the approval of the Asset Sale proposal, will have no effect on the adjournment proposal and will result in your shares not being considered as present for purposes of determining a quorum.

Q Can I change my vote after I have delivered by proxy?

A Yes. If you are a holder of record, you can change your vote at any time before your proxy is voted at the special meeting by:

- Delivering a signed written notice of revocation to the Secretary of BIO-key;
- Signing and delivering a new, valid proxy bearing a later date;
- Submitting another proxy by telephone or the Internet (your latest telephone or Internet voting instructions will be followed); or

- Attending the special meeting and voting in person, although your attendance alone will not revoke your proxy.

If your shares are held in street name, you must contact your broker, bank or other nominee to change your vote.

Q What should I do if I receive more than one set of voting materials for the special meeting?

A You may receive more than one set of voting materials for the special meeting, including multiple copies of this proxy statement and multiple proxy cards or voting instruction forms. For example, if you hold your shares in more than one brokerage account, you will receive a separate voting instruction form for each brokerage account in which you hold shares. If you are a holder of record and your shares are registered in more than one name, you will receive more than one proxy

Table of Contents

card and voting instruction form. For each and every proxy card and voting instruction form that you receive, please vote as soon as possible using one of the following methods:

- By telephone by calling the toll free number as instructed on the enclosed proxy card;
- By using the Internet as instructed on the enclosed proxy card; or
- By mail by completing, signing, dating and returning the enclosed proxy card in the postage-prepaid envelope enclosed for that purpose.

Q **What should I do if only one set of voting materials for the special meeting are sent and there are multiple BIO-key stockholders in my household?**

A Some banks, brokers and other nominee record holders may be participating in the practice of householding proxy statements and annual reports. This means that only one copy of this proxy statement may have been sent to multiple stockholders in your household. BIO-key will promptly deliver a separate copy of this document to you if you contact BIO-key at 300 Nickerson Road, Marlborough, MA 01752, Attention: Secretary, or by telephone at (508) 460-4012, or toll-free at (800) 981-0842 ext. 4012 or by e-mail to Karen Hicks at Karen.Hicks@bio-key.com.

Q **Who can help answer my questions?**

A If you have any questions about the Asset Sale or the adjournment proposals, how to submit your proxy, or if you need additional copies of this proxy statement or the enclosed proxy card or voting instructions, you should contact: BIO-key or its proxy solicitor StockTrans, Inc.

BIO-key International, Inc.
300 Nickerson Road
Marlborough, MA 01752
Attention: Secretary
Phone: (508) 460-4012
Toll Free: (800) 981-0842 ext. 4012

StockTrans, Inc.
44 W. Lancaster Avenue
Ardmore, PA 19003
Attention: Angela Lamb
(610) 649-7300
Toll Free: (800) 733-1121

Table of Contents

RISK FACTORS

In addition to the other information contained or incorporated by reference in this proxy statement, including the matters addressed in Cautionary Statements Concerning Forward-Looking Statements beginning on page [] of this proxy statement, BIO-key stockholders should carefully consider the following risk factors in deciding whether to vote for the proposals set forth herein.

Risks Related to the Asset Sale

We will incur significant costs in connection with the Asset Sale, whether or not we complete it.

We currently expect to incur approximately \$600,000 of costs related to the Asset Sale. These expenses include, but are not limited to, financial advisory, legal and accounting fees and expenses, filing fees, printing expenses, proxy solicitation and other related charges. We may also incur additional unanticipated expenses in connection with the Asset Sale. Approximately \$350,000 of the costs related to the Asset Sale, such as legal, financial advisory and accounting fees, will be incurred regardless of whether the Asset Sale is completed. Additionally, if the Asset Sale proposal is not approved by the stockholders, we may be required to pay InterAct \$1,000,000 as a termination fee. These expenses will decrease the Company's available cash.

Failure to complete the Asset Sale may negatively affect BIO-key's ability to repay its outstanding obligations, its customer relations and/or its stock price.

BIO-key has incurred recurring operating losses and has substantial outstanding liabilities, including a cash settlement payment in the aggregate principal amount of \$2,164,922 to Longview Special Finance, Inc. and Longview Fund, L.P., half of which was paid on July 7, 2009 and the remainder, which accrues interest at seventeen percent (17%) per year, is due on October 31, 2009. BIO-key has also issued an unsecured promissory note in the aggregate principal amount of \$1,000,000 to The Shaar Fund, Ltd., a holder of shares of the Company's Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock, which bears interest at eight percent (8%) per annum and is due and payable in full on November 4, 2009.

If the Asset Sale is not completed for any reason, BIO-key will likely be subject to a number of material risks, including the following:

- BIO-key may not be able to make the necessary investments in the Law Enforcement Division to keep it market competitive and, at the same time, make the necessary investments to grow its Biometrics business;
- BIO-key may be unable to dispose of its assets for values equaling or exceeding its liabilities and obligations, particularly the assets that are the subject of the Asset Sale, which may be substantially diminished in value;

- BIO-key may be unable to secure additional capital or to enter into an alternative business combination transaction;
- BIO-key may not be able to pay any amounts that may become due to the holders of its outstanding convertible preferred stock as a result of the mandatory redemption provisions of such preferred stock;
- BIO-key may not be able to satisfy its other outstanding liabilities and obligations when due;
- BIO-key may be required to pay InterAct a termination fee of \$1,000,000; and
- BIO-key's customers may, in response to the announcement and pendency of the Asset Sale, delay or defer purchasing decisions, which would have a negative impact on BIO-key's ongoing business.

The occurrence of any of the above will likely impair the ability of BIO-key to conduct its operations and business. In addition, the price of BIO-key common stock may decline further if the current market price of BIO-key common stock reflects an assumption that the Asset Sale will be completed.

We cannot be certain if or when the Asset Sale will be completed.

The consummation of the Asset Sale is subject to the satisfaction of various conditions, many of which are beyond our control, including but not limited to, the approval of the Asset Sale by our stockholders and a termination right held by InterAct if the

Table of Contents

Asset Sale is not completed by January 31, 2010. We cannot guarantee that we will be able to satisfy the relevant closing conditions set forth in the Asset Purchase Agreement. If we are unable to satisfy such conditions, InterAct will not be obligated to complete the Asset Sale.

If the Asset Sale does not occur, we anticipate that we would continue to seek to dispose of the assets used in the Law Enforcement Division on terms acceptable to our board of directors and, at the same time, enter into discussions with the holders of our outstanding convertible preferred stock to resolve any amounts that may become due to such holders as a result of the mandatory redemption provisions of such preferred stock. We also anticipate that if we were to be unable to satisfy our obligations to the Longview entities and The Shaar Fund, as discussed above, in full on a timely basis, we would need to reach an agreement with those parties to extend or otherwise amend such obligations. We may also need to seek to raise additional capital from third party financing sources. To the extent that we require such additional financing, no assurance can be given that any form of additional financing will be available on terms acceptable to us, that adequate financing will be obtained to meet our needs, or that such financing would not be dilutive to existing stockholders. If available financing is insufficient or unavailable or we fail to continue to generate meaningful revenue, we may be required to further reduce operating expenses, delay the expansion of operations, be unable to pursue merger or acquisition candidates, or continue as a going concern.

The Asset Purchase Agreement limits BIO-key's ability to pursue alternatives to the Asset Sale.

The Asset Purchase Agreement contains provisions that make it more difficult for BIO-key to sell its Law Enforcement Division to a party other than InterAct prior to the closing of the Asset Sale or the termination of the Asset Purchase Agreement. These provisions include the general prohibition on BIO-key soliciting any acquisition proposal or offer for a competing transaction, the requirement that BIO-key pay a termination fee of \$1,000,000 if the Asset Purchase Agreement is terminated in specified circumstances and the requirement that BIO-key submit the principal terms of the Asset Sale to a vote of BIO-key stockholders, even if the BIO-key board of directors changes its recommendation. See The Asset Purchase Agreement Termination beginning on page 11 of this proxy statement and The Asset Purchase Agreement Obligation of the BIO-key Board of Directors with Respect to Its Recommendation and Holding of a Stockholders Meeting beginning on page 12 of this proxy statement.

These provisions could discourage a third party that might have an interest in acquiring all or a significant part of the Law Enforcement Division from proposing an acquisition, even if such third party were prepared to pay consideration with a higher value than the consideration to be paid by InterAct. Furthermore, the termination fee may result in a potential competing acquirer offering to pay a lower purchase price to acquire the Law Enforcement Division than it might otherwise have offered to pay. The payment of the termination fee could also have an adverse effect on BIO-key's financial condition.

Certain executive officers and employees of BIO-key have interests in the Asset Sale that may be different from, or in addition to, the interests of BIO-key stockholders.

When considering the BIO-key board of directors' recommendation that BIO-key stockholders vote in favor of the Asset Sale proposal, BIO-key stockholders should be aware that certain executive officers of BIO-key have interests in the Asset Sale that may be different from, or in addition to, the interests of BIO-key stockholders. These interests include those of Kenneth Souza, the Executive Vice President and General Manager, Law Enforcement of the Company. On October 4, 2008, BIO-key renewed its year-to-year employment agreement with Mr. Souza to serve as Executive Vice President and General Manager, Law Enforcement of the Company. InterAct has agreed to assume BIO-key's obligations to Mr. Souza under that employment agreement following the Asset Sale and it is anticipated that Mr. Souza will become an employee of InterAct. The BIO-key board of directors discussed these interests prior to voting to approve the Asset Sale. For a full description of the interests of BIO-key's executive officers and employees in the Asset Sale, see Proposal One The Asset Sale Proposal Interests of Executive Officers and

Employees of BIO-key in the Asset Sale beginning on page [] of this proxy statement.

RISK FACTORS RELATING TO BIO-KEY

Based on our lack of significant revenue since inception and recurring losses from operations, our auditors have included an explanatory paragraph in their opinion as to the substantial doubt about our ability to continue as a going concern.

Due to, among other factors, our history of losses (excluding gains from valuation changes in embedded derivatives) and limited revenue, our independent auditors have included an explanatory paragraph in their opinion for the year ended December 31, 2008, as to the substantial doubt about our ability to continue as a going concern. Our financial statements have been prepared in accordance with accounting principles generally accepted in the United States, which contemplate that we will continue to operate as a going concern. Our financial statements do not contain any adjustments that might result if we are unable to continue as a going concern.

Table of Contents

Since our formation, we have historically generated minimal revenue and have sustained substantial operating losses.

As of December 31, 2008, we had negative working capital of approximately \$4,100,000 and an accumulated deficit of approximately \$54,781,000. Since our inception, we have focused almost exclusively on developing our core technologies and, until the fourth quarter of 2004, had not generated any significant revenue. In order to increase revenue, we have developed a direct sales force and anticipate the need to retain additional sales, marketing and technical support personnel and may need to incur substantial expenses. We cannot assure you that we will be able to secure these necessary resources, that a significant market for our technologies will develop or that we will be able to achieve our targeted revenue.

Our biometric technology has yet to gain widespread market acceptance and we do not know how large of a market will develop for our technology.

Biometric technology has received only limited market acceptance, particularly in the private sector. Our technology represents a novel security solution and we have not yet generated significant sales. Although recent security concerns relating to identification of individuals has increased interest in biometrics generally, it remains an undeveloped, evolving market. Biometric based solutions compete with more traditional security methods including keys, cards, personal identification numbers and security personnel. Acceptance of biometrics as an alternative to such traditional methods depends upon a number of factors including:

- the reliability of biometric solutions;
- public perception regarding privacy concerns; and
- costs involved in adopting and integrating biometric solutions.

For these reasons, we are uncertain whether our biometric technology will gain widespread acceptance in any commercial markets or that demand will be sufficient to create a market large enough to produce significant revenue or earnings. Our future success depends, in part, upon business customers adopting biometrics generally, and our solution specifically.

Biometric technology is a new approach to Internet security which must be accepted in order for our WEB-key ® solution to generate significant revenue.

Our WEB-key ® authentication initiative represents a new approach to Internet security which has been adopted on a limited basis by companies which distribute goods, content or software applications over the Internet. The implementation of our WEB-key ® solution requires the distribution and use of a finger scanning device and integration of database and server side software. Although we believe our solutions provide

a higher level of security for information transmitted over the Internet than existing traditional methods, unless business and consumer markets embrace the use of a scanning device and believe the benefits of increased accuracy outweigh implementation costs, our solution will not gain market acceptance.

Our software products may contain defects which will make it more difficult for us to establish and maintain customers.

Although we have completed the development of our core biometric technology, it has only been used by a limited number of business customers. Despite extensive testing during development, our software may contain undetected design faults and software errors, or bugs that are discovered only after it has been installed and used by a greater number of customers. Any such defect or error in new or existing software or applications could cause delays in delivering our technology or require design modifications. These could adversely affect our competitive position and cause us to lose potential customers or opportunities. Since our technologies are intended to be utilized to secure physical and electronic access, the effect of any such bugs or delays will likely have a detrimental impact on us. In addition, given that biometric technology generally, and our biometric technology specifically, has yet to gain widespread acceptance in the market, any delays will likely have a more detrimental impact on our business than if we were a more established company.

While we have commenced a significant sales and marketing effort, we have only begun to develop a significant distribution channel and may not have the resources or ability to sustain these efforts or generate any meaningful sales.

In order to generate revenue from our biometric products, we are dependent upon independent original equipment manufacturers, system integrators and application developers, which we do not control. As a result, it may be more difficult to generate sales.

We market our technology through licensing arrangements with:

Table of Contents

- Original equipment manufacturers, system integrators and application developers which develop and market products and applications which can then be sold to end users; and
- Companies which distribute goods, services or software applications over the Internet.

As a technology licensing company, our success will depend upon the ability of these manufacturers and developers to effectively integrate our technology into products and services which they market and sell. We have no control over these licensees and cannot assure you that they have the financial, marketing or technical resources to successfully develop and distribute products or applications acceptable to end users or generate any meaningful revenue for us. These third parties may also offer the products of our competitors to end users.

We derive the majority of our revenue from government contracts, which are often non-standard, involve competitive bidding, may be subject to cancellation with or without penalty and may produce volatility in earnings and revenue.

Most of our business involves providing products and services under contracts with U.S. federal, state and local government agencies. Obtaining contracts from government agencies is challenging, and government contracts often include provisions that are not standard in private commercial transactions. For example, government contracts may:

- include provisions that allow the government agency to terminate the contract without penalty under some circumstances;
- be subject to purchasing decisions of agencies that are subject to political influence;
- contain onerous procurement procedures; and
- be subject to cancellation if government funding becomes unavailable.

Securing government contracts can be a protracted process involving competitive bidding. In many cases, unsuccessful bidders may challenge contract awards, which can lead to increased costs, delays and possible loss of the contract for the winning bidder.

We face intense competition and may not have the financial and human resources necessary to keep up with rapid technological changes, which may result in our technology becoming obsolete.

The Internet, facility access control and information security markets are subject to rapid technological change and intense competition. We compete with both established biometric companies and a significant number of startup enterprises as well as providers of more traditional methods of access control. Most of our competitors have substantially greater financial and marketing resources than we do and may independently develop superior technologies, which may result in our technology becoming less competitive or obsolete. We may not be able to keep pace with this change. If we are unable to develop new applications or enhance our existing technology in a timely manner in response to technological changes, we will be unable to compete in our chosen markets. In addition, if one or more other biometric technologies such as voice, face, iris, hand geometry or blood vessel recognition are widely adopted, it would significantly reduce the potential market for our fingerprint identification technology.

We depend on key employees and members of our management team, including our Chairman of the Board and Chief Executive Officer, in order to achieve our goals. We cannot assure you that we will be able to retain or attract such persons.

A loss of our current Chairman of the Board of Directors or Chief Executive Officer could severely and negatively impact our operations. Our consulting contract with Thomas J. Colatosti, our Chairman of the Board of Directors and acting Chief Financial Officer, expires in November 2009. Mr. Colatosti continues to assist the Company in the areas of strategic planning and corporate finance. In addition, we had an employment contract with Michael W. DePasquale, our Chief Executive Officer, through May 2009. We anticipate that Mr. DePasquale will enter into a new employment contract with BIO-key following the closing of the Asset Sale. Although that contract would not prevent him from resigning, it would contain confidentiality and non-compete clauses which are intended to prevent him from working for a competitor within one year after leaving our Company. Our success depends on our ability to attract, train and retain employees with expertise in developing, marketing and selling software solutions. In order to successfully market our technology, we will need to retain additional engineering, technical support and marketing personnel. The market for such persons remains highly competitive and our limited financial resources will make it more difficult for us to recruit and retain qualified persons.

Table of Contents

We cannot assure you that the intellectual property protection for our core technology provides a sustainable competitive advantage or barrier to entry against our competitors.

Our success and ability to compete is dependent in part upon proprietary rights to our technology. We rely primarily on a combination of patent, copyright and trademark laws, trade secrets and technical measures to protect our propriety rights. We have filed a patent application relating to both the optic technology and biometrics solution components of our technology wherein several claims have been allowed. Over the last few years, the U.S. Patent Office has issued us a series of patents for our Vector Segment fingerprint technology (VST), and our other core biometric analysis and identification technologies. We cannot assure you that any additional patents will be issued or that we will have the resources to protect any patent from infringement. Although we believe our technology does not currently infringe upon patents held by others, we cannot assure you that such infringements do not exist or will not exist in the future.

We may need to obtain additional financing to execute our business plan, which may not be available. If we are unable to raise additional capital or generate significant revenue, we may not be able to continue operations.

Since our inception, we have not generated significant, recurring revenue (other than revenue from acquired businesses) and have experienced substantial losses. In January 2006, we received approximately \$1,000,000 in a private placement convertible debt offering, and in August 2006, we raised approximately \$2,000,000 in gross proceeds through a private issuance of equity securities, of which \$1,500,000 was received in cash and \$500,000 was paid by an exchange of rights to declared and unpaid dividends. In May 2007, we received approximately \$1,800,000 in net proceeds from the sale of our Fire/EMS Services division.

If we are unable to generate sufficient revenue to meet our goals, we will need to obtain additional third-party financing to (i) conduct the sales, marketing and technical support necessary to execute our plan to substantially grow operations, increase revenue and serve a significant customer base; and (ii) provide working capital. Therefore, we may need to obtain additional financing through the issuance of debt or equity securities, or to restructure our financial position through similar transactions to those consummated during 2006 and 2007.

We cannot assure you that we will ever be able to secure any such financing on terms acceptable to us. If we cannot obtain such financing, we may not be able to execute our business plan or continue operations.

We may not achieve sustainable profitability with respect to the law enforcement and biometric components of our business if we are unable to maintain, improve and develop the wireless data services we offer.

We believe that our future business prospects depend in part on our ability to maintain and improve our current services and to develop new ones on a timely basis. Our services will have to achieve market acceptance, maintain technological competitiveness and meet an expanding range of customer requirements. As a result of the complexities inherent in our service offerings, major new wireless data services and service enhancements require long development and testing periods. We may experience difficulties that could delay or prevent the successful development, introduction or marketing of new services and service enhancements. Additionally, our new services and service enhancements may not achieve market acceptance. If we cannot effectively develop and improve services we may not be able to recover our fixed costs or otherwise become profitable.

Our law enforcement and biometric division depends upon wireless networks owned and controlled by others.

If we do not have continued access to sufficient capacity on reliable networks, we may be unable to deliver services and our sales could decrease. Our ability to grow and achieve profitability partly depends on our ability to buy sufficient capacity on the networks of wireless carriers such as Verizon Wireless, Bell South Corporation, Metrocall, Motient and AT&T Wireless and on the reliability and security of their systems. All of our services are delivered using airtime purchased from third parties. We depend on these companies to provide uninterrupted and bug free service and would not be able to satisfy our customers' needs if they failed to provide the required capacity or needed level of service. In addition, our expenses would increase and our profitability could be materially adversely affected if wireless carriers were to increase the prices of their services. Our existing agreements with the wireless carriers generally have one-year terms. Some of these wireless carriers are, or could become, our competitors and if they compete with us, they may refuse to provide us with their services.

New laws and regulations that impact our law enforcement and biometric division could increase our costs or reduce our opportunities to earn revenue.

We are not currently subject to direct regulation by the Federal Communications Commission (FCC) or any other governmental agency, other than regulations applicable to businesses in general. However, in the future, we may become subject to

Table of Contents

regulation by the FCC or another regulatory agency. In addition, the wireless carriers who supply us airtime and certain of our hardware suppliers are subject to regulation by the FCC and regulations that affect them could increase our costs or reduce our ability to continue selling and supporting our services.

If we fail to adequately manage our resources, it could have a severe negative impact on our financial results or stock price.

We could be subject to fluctuations in technology spending by existing and potential customers. Accordingly, we will have to actively manage expenses in a rapidly changing economic environment. This could require reducing costs during economic downturns and selectively growing in periods of economic expansion. If we do not properly manage our resources in response to these conditions, our results of operations could be negatively impacted.

Our obligations to the holders of our outstanding preferred stock may adversely affect our ability to enter into potential significant transactions with other parties.

We will need to obtain the consent of the holders of a majority of the then outstanding shares of our convertible preferred stock before we can take certain actions, including the following:

- a sale or other disposition of any material assets;
- an acquisition of a material amount of assets;
- engaging in a merger, reorganization or consolidation; or
- incur or guaranty any indebtedness in excess of \$50,000.

Accordingly, unless we obtain such consent, we may not be able to enter into certain transactions.

We have issued a substantial number of securities that are convertible into shares of our common stock which will result in substantial dilution to the ownership interests of our existing shareholders.

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As of December 31, 2008, approximately 67,691,000 shares of our common stock were reserved for issuance upon exercise or conversion of the following securities (at conversion prices applicable as at December 31, 2008):

- 17,589,000 shares upon exercise of outstanding stock options and warrants;
- 2,899,000 shares upon exercise of options available for future grant under our existing option plans; and
- 47,203,000 shares or more upon conversion of our outstanding shares of convertible preferred stock and cumulative dividends in arrears.

The exercise or conversion of these securities will result in a significant increase in the number of outstanding shares and substantially dilute the ownership interests of our existing shareholders.

A substantial number of our convertible securities are convertible into shares of common stock at a conversion price of \$.30 per share. Most of these shares are eligible for public resale. The trading price of our common stock and our ability to raise additional financing may be adversely affected by the influx into the market of such a substantial number of shares.

Our outstanding shares of Series A, B and C Convertible Preferred Stock (collectively, the Preferred Stock) and cumulative dividends in arrears are convertible into approximately 47,203,000 shares of common stock as of December 31, 2008, at a per share conversion price of \$.30. Although many of the shares issuable upon conversion of our Preferred Stock are eligible for public resale under Securities Exchange Commission Rule 144, we agreed to file a registration statement to cover the public resale of all of these shares. This significant increase in the number of shares available for public sale may have a negative impact on the trading price of our shares and substantially dilute the ownership interests of our existing shareholders. In the event that our stock trades below \$.30 per share, in order to raise additional financing we would likely be required to issue additional shares of common stock or securities convertible into common stock at a purchase or conversion price, as applicable, of less than \$.30 per share. Any issuance of shares at a purchase price of less than \$.30 per share would reduce the conversion price of our Preferred Stock to such lower price. This would

Table of Contents

require us to issue additional shares upon conversion of our Preferred Stock and further dilute the ownership interests of our existing shareholders. To the extent these factors are viewed negatively by the market, it may provide an incentive for persons to execute short sales of our common stock that could adversely affect the trading price of our common stock.

Applicable Securities and Exchange Commission Rules governing the trading of penny stocks limits the trading and liquidity of our common stock, which may affect the trading price of our common stock.

Our common stock currently trades on the OTC Bulletin Board. Since our common stock continues to trade below \$5.00 per share, our common stock is considered a penny stock and is subject to Securities and Exchange Commission rules and regulations, which impose limitations upon the manner in which our shares can be publicly traded. These regulations require the delivery, prior to any transaction involving a penny stock, of a disclosure schedule explaining the penny stock market and the associated risks. Under these regulations, certain brokers who recommend such securities to persons other than established customers or certain accredited investors must make a special written suitability determination regarding such a purchaser and receive such purchaser's written agreement to a transaction prior to sale. These regulations have the effect of limiting the trading activity of our common stock and reducing the liquidity of an investment in our common stock.

We do not intend to pay dividends in the foreseeable future.

We have never declared or paid a dividend on our common stock. In addition, the terms of our outstanding Preferred Stock preclude us from declaring or paying a dividend on our common stock unless a dividend is also declared or paid, as applicable, on our Preferred Stock. We intend to retain earnings, if any, for use in the operation and expansion of our business and, therefore, do not anticipate paying any dividends on our common stock in the foreseeable future.

The trading price of our common stock may be volatile.

The trading price of our shares has from time to time fluctuated widely and in the future may be subject to similar fluctuations. The trading price may be affected by a number of factors including the risk factors set forth in this proxy statement as well as our operating results, financial condition, announcements of innovations or new products by us or our competitors, general conditions in the biometrics and access control industries, and other events or factors. Although we believe that approximately 15 registered broker dealers currently make a market in our common stock, we cannot assure you that any of these firms will continue to serve as market makers or have the financial capability to stabilize or support our common stock. A reduction in the number of market makers or the financial capability of any of these market makers could also result in a decrease in the trading volume of and price of our shares. In recent years broad stock market indices, in general, and the securities of technology companies, in particular, have experienced substantial price fluctuations. Such broad market fluctuations may adversely affect the future-trading price of our common stock.

Completion of the Asset Sale may result in dilution of future earnings per share to the stockholders of BIO-key.

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The completion of the Asset Sale may not result in improved earnings per share of BIO-key. The Asset Sale could fail to produce the benefits that BIO-key anticipates, or could have other adverse effects that BIO-key currently does not foresee. In this event, the Asset Sale could result in a reduction of earnings per share of BIO-key as compared to the earnings per share that would have been achieved if the Asset Sale had not occurred.

Table of Contents

CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

The Securities and Exchange Commission, or the SEC, encourages companies to disclose forward-looking information so that investors can better understand a company's future prospects and make informed investment decisions. These statements may be made directly in this proxy statement, and they may also be made a part of this proxy statement by reference to other documents filed with the SEC, which is known as incorporation by reference.

Words such as may, anticipate, estimate, expects, projects, intends, plans, believes and words and terms of similar substance used in with any discussion of future operating or financial performance identify forward-looking statements. You should read statements that contain these words carefully. All forward-looking statements represent present expectations of BIO-key management regarding future events, plans, objectives, expectations and intentions and are subject to a number of assumptions, risks and uncertainties that could cause actual results to differ materially from those described in the forward-looking statements. These risks include, but are not limited to, the risks and uncertainties set forth in Risk Factors beginning on page [] of this proxy statement. In light of these assumptions, risks and uncertainties, the results and events discussed in the forward-looking statements contained in this proxy statement or in any document incorporated by reference might not occur. Forward-looking statements also include information concerning possible or assumed future results of operations of BIO-key and its business, the expected completion and timing of the Asset Sale and other information relating to the Asset Sale. There are forward-looking statements throughout this proxy statement, including, among others, under the headings Summary and Consideration to be Received by BIO-key .

You are cautioned not to place undue reliance on the forward-looking statements, which speak only as of the date of this proxy statement or the date of the document incorporated by reference in this proxy statement. We cannot guarantee any future results, levels of activity, performance or achievements. Except as required by law, BIO-key does not undertake any obligation to update or alter any forward-looking statements, whether as a result of new information, future events or otherwise. All subsequent forward-looking statements attributable to BIO-key, or to any person acting on its behalf, are expressly qualified in their entirety by the cautionary statements contained or referred to in this section.

Table of Contents

ADDITIONAL INFORMATION RELATING TO THE

SPECIAL MEETING OF THE STOCKHOLDERS OF BIO-KEY

When and Where the Special Meeting Will Be Held

The special meeting of the stockholders of BIO-key will be held at the offices of Choate, Hall & Stewart LLP, Two International Place, Boston, MA 02110 on [], 2009, at [] a.m. Eastern Time].

Other Business

We are not currently aware of any business other than the named proposals to be acted upon at the BIO-key special meeting. If, however, any other matters are properly brought before the meeting, or any adjournment or postponement thereof, the persons named in the enclosed form of proxy, and acting under that proxy, will have discretion to vote or act on those matters in accordance with their best judgment.

Which Stockholders May Vote

The BIO-key board of directors has fixed the close of business on [], 2009 as the record date. Only holders of record of BIO-key common stock at the close of business on the record date will be entitled to notice of, and to vote at, the special meeting and any adjournment or postponement of the special meeting. Each share of BIO-key common stock is entitled to one vote.

At the close of business on [], 2009, [] of our authorized common stock were issued and outstanding and held of record by [] stockholders.

As of the record date, the directors and executive officers of BIO-key and their affiliates held [] shares of BIO-key common stock representing, approximately []% of the outstanding shares of BIO-key common stock.

How Do BIO-key Stockholders Vote

The BIO-key proxy card accompanying this proxy statement is solicited on behalf of the BIO-key board of directors for use at the special meeting. BIO-key's stockholders are requested to complete, date and sign the accompanying proxy card and promptly return it in the accompanying envelope or otherwise mail it to BIO-key. BIO-key's stockholders can also submit their proxy by telephone or the Internet. All

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proxies that are properly executed and returned, or submitted by telephone or the Internet, and that are not revoked, will be voted at the special meeting in accordance with the instructions indicated thereon. Executed or submitted but unmarked proxies will be voted **FOR** approval of all of the proposals listed on the proxy card.

Quorum and Vote Required to Approve Each Proposal

The presence at the meeting, in person or by proxy, of the holders of a majority of the issued and outstanding shares of common stock entitled to vote at the special meeting will be necessary to constitute a quorum.

Voting requirements for the approval of the Asset Sale proposal. Assuming a quorum is present, approval of the Asset Sale proposal will require the affirmative vote of the holders of a majority of the outstanding shares of the BIO-key common stock.

Voting requirements for the adjournment proposal. Assuming a quorum is present, the approval of the adjournment proposal will require the affirmative vote of the holders of a majority of the outstanding shares of BIO-key common stock present, either in person or by proxy, and entitled to vote at the special meeting.

Abstentions; Broker Non-Votes

The inspector of elections at BIO-key's special meeting will treat abstentions and shares represented by proxies that reflect abstentions as shares that are present and entitled to vote for the purpose of determining the presence of a quorum and as having voting power for the purpose of determining the outcome of any matter submitted to BIO-key's stockholders for a vote. Abstentions will have the effect of votes against any proposal to be considered at the special meeting.

Broker non-votes occur when a broker holding stock in street name does not vote the shares on some or all matters. Brokers are permitted to vote on routine, non-controversial proposals in instances where they have not received voting instruction from the beneficial owner of the stock but are not permitted to vote on non-routine matters. Uncast votes on non-routine matters are referred to

Table of Contents

as broker non-votes. The inspector of elections will treat broker non-votes as shares that are present and entitled to vote for the purpose of determining the presence of a quorum. However, for the purpose of determining the outcome of any matter as to which the broker or nominee has indicated on the proxy that it does not have discretionary authority to vote, the inspector of elections will be required to treat those shares as not having voting power with respect to that matter (even though their shares may represent voting power with respect to other matters, such as routine matters). Broker non-votes will not be considered to have been voted for or against the approval of the Asset Sale proposal. However, because the votes required to approve the Asset Sale proposal are based on a percentage of the total number of shares outstanding, rather than as a percentage of the voting power represented at the meeting, broker non-votes will have the effect of a vote against those proposals. Broker non-votes will have no effect on the adjournment proposal.

Revocability of Proxies

Stockholders of record who execute proxies may revoke them by giving written notice to, or by signing and delivering a new, valid proxy bearing a later date to, BIO-key's Secretary at any time before such proxies are voted. Stockholders who submit a proxy by telephone or the Internet can revoke them by submitting another proxy by telephone or the Internet at any time before such proxy is voted. Attendance at the special meeting will not have the effect of revoking a proxy unless the stockholder attending the special meeting notifies the Secretary, in writing, of the revocation of the proxy at any time prior to the voting of the shares represented by the proxy. If a stockholder's shares are held in street name, the stockholder must contact its broker, bank or other nominee to change its vote.

Solicitation of Proxies and Expenses of Solicitation

BIO-key will bear the costs of printing, filing and mailing this proxy statement. BIO-key will also bear the costs of holding the special meeting and the cost of soliciting proxies. In addition to solicitation by mail, BIO-key's directors, officers and regular employees (who will not be specifically compensated for such services) may solicit proxies by telephone, facsimile, e-mail and personal meetings. BIO-key has retained StockTrans, Inc. to aid in the solicitation of proxies from stockholders for an estimated initial retainer of \$5,000, plus additional out-of-pocket expenses. The extent to which these proxy soliciting efforts will be necessary depends entirely upon how promptly proxies are received. You should send in your proxy by mail without delay or vote by telephone or using the Internet. We also reimburse brokers and other custodians, nominees and fiduciaries for their expenses in sending these materials to you and getting your voting instructions. A more complete description of how to send your proxy is included on the proxy accompanying this proxy statement.

Dissenters' Rights

Under Delaware law, holders of our common stock are not entitled to appraisal rights with respect to the matters to be considered at the BIO-key special meeting.

Internet Availability of Proxy Materials

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These proxy solicitation materials were first mailed on or about [], 2009 to all stockholders entitled to vote at the BIO-key special meeting. Pursuant to the rules recently adopted by the Securities and Exchange Commission, we are permitted to provide access to our proxy material over the Internet instead of mailing a printed copy of the proxy material to each stockholder.

Because we have elected to utilize the full set delivery option, we are delivering our proxy materials to our stockholders under the traditional method by providing paper copies as well as providing access to our proxy materials on a publicly accessible Web site. Our proxy statement and proxy are available at www.[].

Assistance

If you need assistance in completing your proxy card or have questions regarding the special meeting, please contact BIO-key or its proxy solicitor StockTrans, Inc.

BIO-key International, Inc.
300 Nickerson Road
Marlborough, MA 01752
Attention: Secretary
Telephone: (508) 460-4012
Toll Free: (800) 981-0842 ext. 4012

StockTrans, Inc.
44 W. Lancaster Avenue
Ardmore, PA 19003
Attention: Angela Lamb
Telephone: (610) 649-7300
Toll Free: (800) 733-1121

Table of Contents

PROPOSAL ONE THE ASSET SALE PROPOSAL

The following is a description of the material aspects of the Asset Sale, including the Asset Purchase Agreement. While BIO-key believes that the following description covers the material terms of the Asset Sale and the Asset Purchase Agreement, the description may not contain all of the information that is important to you. In particular, the following summary of the Asset Sale proposal and the Asset Purchase Agreement is not complete and is qualified in its entirety by reference to the copies of the related documents attached to this proxy statement as Annex A through Annex D. BIO-key encourages you to read carefully this entire proxy statement and the other documents to which we refer, including the Asset Purchase Agreement attached to this proxy statement as Annex A, for a more complete understanding of the Asset Sale proposal.

Background of the Asset Sale

On March 30, 2004, BIO-key acquired Public Safety Group, Inc., which we refer to as PSG, a privately held company focused on wireless solutions for law enforcement and public safety markets. PSG's primary technology is PocketCop, a handheld solution that provides mobile officers, such as detectives who are not typically in their vehicles, a hand-held mobile information software solution.

On August 30, 2004, BIO-key completed a transaction with Aether Systems, Inc., a leading provider of wireless data solutions, to purchase its Mobile Government Division, whose customers were public safety organizations - primarily state and local police, fire and rescue and emergency medical services organizations. These two acquisitions formed the basis for BIO-key's Law Enforcement Division.

In 2006, BIO-key began seeing changing market conditions such that (i) the mobile market was maturing and becoming a slow growth market; (ii) customers were increasingly looking for complete end-to-end public safety technology solutions, not just a series of stand-alone applications; and (iii) the hand-held market, which offered significant growth potential, was still several years away from achieving revenue mass. As a result, BIO-key began having conversations with a number of companies regarding potential relationships, whether they be strategic partnerships, sales or acquisitions to strategically enhance the Law Enforcement Division's competitive position.

After conducting several interviews and considering several different investment bankers, Kaufman Bros. L.P. (referred to as Kaufman Bros.) was retained on April 6, 2006 to advise BIO-key on a broad range of issues, including strategic opportunities for the Law Enforcement Division. Kaufman Bros. identified a number of potential transaction partners with which BIO-key management had discussions of varying length and seriousness. Efforts were made to solicit indications of interest from potential acquirors, both strategic and financial, following the retention of Kaufman Bros through 2008. The BIO-key board also considered a private placement of securities or the issuance of non-convertible debt and but these alternatives were ultimately rejected by the BIO-key board because they would have required significant ongoing dividend or interest obligations.

One of the companies with which BIO-key management engaged in discussions was InterAct911 Mobile Systems, Inc., which we refer to as InterAct, an affiliate of a company BIO-key had previously worked cooperatively with in certain customer selling situations because such affiliate's CAD/RMS products could be integrated with BIO-key's mobile solutions. For more than a year, the two companies had on and off discussions about a business combination. The discussions ebbed and flowed with varying levels of interest and ultimately discussions terminated in 2008.

On February 19 and 20, 2009, a regularly scheduled quarterly directors meeting was expanded into a two-day retreat held at BIO-key's offices. In attendance were all of BIO-key's directors, its legal counsel and a representative from Kaufman Bros. The purpose of this expanded meeting was to conduct an in-depth operational review of BIO-key's business for the year just ended and to review the forecast and budget for 2009. Additionally, extensive discussions took place with respect to the objectives for management to use in considering any transaction involving the Law Enforcement Division.

In early spring of 2009, discussions between InterAct and Bio-key resumed, but the nature of a potential transaction changed from a potential business combination to the sale of the Law Enforcement Division to InterAct. On April 3, 2009, InterAct presented BIO-key with a term sheet to purchase the Law Enforcement Division. BIO-key's board of directors rejected the offer because it did not consider the aggregate proposed purchase price to be adequate.

After consulting with the board of directors of BIO-key, Thomas J. Colatosti, Board Chair, contacted Matt Roszak, Chief Financial Officer of SilkRoad Equity, LLC, the majority owner of InterAct (referred to as SilkRoad), to inform him of BIO-key's decision. These two individuals became the primary interfaces between the two companies on this transaction. Between April 20, 2009 and May 22, 2009, Messrs. Colatosti and Roszak exchanged various proposals as to the material transaction terms including the total price, length and terms of the deferred payment, number and price of warrants that would be issued and closing adjustments.

Table of Contents

On May 22, 2009, InterAct submitted a term sheet to BIO-key in which the aggregate consideration would be \$11,000,000, of which \$7,000,000 would be paid at closing and \$4,000,000 would be paid over three years. SilkRoad would also be issued a warrant to purchase 9.9% of BIO-key's common stock at \$.30 per share.

The BIO-key board of directors meet telephonically on May 22, 2009 and approved the proposed fundamental pricing terms to sell the Law Enforcement Division to InterAct. Mr. Colatosti was asked to work with counsel to finalize the other aspects of the term sheet.

Between June 1, 2009 and June 11, 2009, legal counsel for both companies exchanged several versions of the term sheet.

On June 11, 2009, a term sheet reflecting input from the parties' respective counsel and signed by InterAct was presented to BIO-key. On that day, the term sheet was transmitted to the BIO-key board of directors. After discussion, on June 11, 2009, the BIO-key directors approved the term sheet, which Mr. Colatosti was authorized to execute on behalf of BIO-key.

Immediately thereafter, the due diligence process began whereby BIO-key provided InterAct with substantial financial, contract, customer and personnel data. BIO-key also conducted its own due diligence on InterAct, including a financial review of InterAct and SilkRoad. BIO-key also interviewed InterAct's two other primary owners, Foundation Equity and Bay Capital. BIO-key also interviewed SilkRoad's banker and auditor.

In parallel to the due diligence process, the two companies and their legal counsel negotiated an Asset Purchase Agreement during late July and early August of 2009. During this process, SilkRoad agreed to guarantee the deferred portion of the purchase price. On August 13, 2009, the BIO-key board of directors convened and negotiated the form of Asset Purchase Agreement and reviewed and discussed the fairness opinion of Kaufman Bros. The board of directors of BIO-key unanimously authorized the execution of the Asset Purchase Agreement which took place later that same day.

BIO-key's Reasons for the Asset Sale

In approving the Asset Sale pursuant to the terms of the Asset Purchase Agreement and recommending that the BIO-key stockholders approve the Asset Sale proposal, the BIO-key board of directors considered a number of factors, including those listed below. The BIO-key board of directors believes that the Asset Sale and the Asset Purchase Agreement are advisable and in the best interests of BIO-key and its stockholders. Among the factors that the BIO-key board of directors considered are the following:

- In 2007, the Company began seeing changing market conditions such that (i) the mobile market was maturing and was becoming a slow growth market; (ii) customers were increasingly looking for complete end-to-end public safety technology solutions, not just a series of best-in-class applications; and (iii) the hand-held market, which offered significant growth potential, was still several years away from achieving revenue mass. As a result, BIO-key began having numerous conversations with several companies regarding potential relationships, including but not limited to partnerships, sales, merger or acquisitions, to strategically enhance the Law Enforcement Division's competitive positioning.

- In 2009, the Company saw an important uptick in the potential of its biometric business. The Company realized that it lacked the resources to invest in both the Law Enforcement business and the Biometrics business at the same time and to also redeem its outstanding convertible preferred stock.
- BIO-key believed that its public market value was being constrained because of (i) the high dividend rate of the convertible preferred stock and its negative impact on the Company's balance sheet; and (ii) the preference and number of shares of convertible preferred stock, which, as a practical matter, prohibited the Company from raising new financing to meet the investment needs of both the Law Enforcement and Biometric businesses.
- Therefore, the rationale of BIO-key's board of directors to sell the Law Enforcement business was largely based on the board of directors' desire to satisfy the obligations due to holders of the Company's convertible preferred stock, to unlock the value in the Company's common stock and to obtain the necessary cash to invest in the Biometrics business.

The BIO-key board of directors also considered a variety of risks and other potentially negative factors applicable to the Asset Sale. In addition to the proposed Asset Sale with InterAct, the board of directors of the Company considered similar but less attractive transactions with other third parties. Additionally, the board of directors of the Company considered redeeming the Company's convertible preferred stock by reducing the conversion price to a price that was discounted to market and converting the

Table of Contents

shares of convertible preferred stock to common stock. This action would likely have added more than 100 million shares to our capital structure and would therefore have significantly diluted common shareholders. The board of directors of BIO-key realized, however, that even such prohibitively expensive alternative may not have been approved by the holders of convertible preferred stock because the dilutive effect of such conversion could dramatically erode the price and liquidity of the Company's common stock.

Risks of the Asset Sale

The foregoing summarizes those material factors and risks considered by the BIO-key board of directors but it is in no way meant to be exhaustive of the discussion and information considered by the board of directors. In view of its many considerations, the BIO-key board of directors did not quantify or otherwise assign relative significance to each factor considered. In addition, each member of the board of directors may have given different significance to various factors. The BIO-key board of directors concluded that the potential benefits of the Asset Sale on the terms of the Asset Sale Purchase Agreement outweighed the potential risks of the transaction and that, overall, the proposed Asset Sale had greater potential benefits to BIO-key, its stockholders and other stakeholders than other strategic alternatives currently available to BIO-key.

After discussing and evaluating all of these considerations, the BIO-key board of directors:

- determined that the Asset Purchase Agreement, the Asset Sale and other transactions contemplated thereby are fair to BIO-key and in the best interests of BIO-key and its stockholders;
- approved and adopted the Asset Purchase Agreement, the Asset Sale and the other transactions contemplated thereby in accordance with the requirements of Delaware General Corporation Law; and
- resolved to recommend that BIO-key's stockholders approve the Asset Sale pursuant to the terms of the Asset Purchase Agreement.

Recommendation of the BIO-key Board of Directors

For the reasons set forth above, the BIO-key board of directors believes that the Asset Sale is in the best interests of BIO-key and its stockholders and recommends that the stockholders vote **FOR** the approval of the Asset Sale pursuant to the terms of the Asset Purchase Agreement.

Opinion of Kaufman Bros. L.P. to the Board of Directors of BIO-key

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BIO-key engaged Kaufman Bros. L.P., or Kaufman Bros., to render an opinion as to the fairness, from a financial point of view, of the aggregate purchase price to be received by BIO-key's stockholders in the sale, as part of the Asset Sale, of substantially all of the assets of BIO-key's Law Enforcement Division. Separately, BIO-key previously engaged, and Kaufman Bros. currently serves, as BIO-key's financial advisor with respect to the Asset Sale. On August 13, 2009, Kaufman Bros. delivered its oral opinion to the Chairman of the Board of Directors of BIO-key, subsequently followed by delivery of a written opinion to the BIO-key board of directors, to the effect that, as of August 13, 2009, and based upon and subject to the qualifications, limitations and assumptions set forth in the opinion, the aggregate purchase price to be received by the stockholders in the Asset Sale is fair, from a financial point of view, to BIO-key's stockholders.

This summary of Kaufman Bros. written opinion is qualified in its entirety by reference to the full text of Kaufman Bros. written opinion, dated August 13, 2009, and attached to this proxy statement as Annex B. You are urged to, and should, read Kaufman Bros. written opinion carefully and in its entirety. Kaufman Bros. written opinion addresses only the fairness, from a financial point of view, of the aggregate purchase price to be received by the stockholders in the Asset Sale, as of the date of Kaufman Bros. written opinion. The opinion of Kaufman Bros. was provided for the information and assistance of the BIO-key board of directors in connection with its consideration of the Asset Sale. The opinion of Kaufman Bros. does not address any other aspect of the Asset Sale and does not constitute a recommendation to any securityholder as to how such securityholder should vote or act with respect to any matters relating to the Asset Sale or otherwise. The form and amount of consideration payable in the Asset Sale were determined through negotiations between BIO-key and InterAct, and were approved by the board of directors of BIO-key. Kaufman Bros. opinion was among many factors that the board of directors took into consideration in making its determination to approve the Asset Sale.

Material and Information Considered with Respect to the Asset Sale

In arriving at its opinion, Kaufman Bros., among other things:

Table of Contents

- (i) reviewed an unexecuted draft of the Asset Purchase Agreement, dated August 12, 2009, relating to the Asset Sale;

- (ii) reviewed certain information furnished to Kaufman Bros. by BIO-key's management, including financial forecasts and analyses, relating to the business, operations and prospects of the Law Enforcement Division;

- (iii) held discussions with members of BIO-key's senior management concerning the matters described in clauses (i) and (ii) above and certain other matters Kaufman Bros. believed necessary or appropriate to its inquiry;

- (iv) compared the results of operations of the Law Enforcement Division with that of certain publicly traded companies which Kaufman Bros. deemed to be reasonably similar to the Law Enforcement Division;

- (v) compared the proposed financial terms of the Asset Sale with the financial terms of certain other transactions that Kaufman Bros. deemed relevant; and