

PHOENIX TECHNOLOGIES LTD
Form DEF 14A
January 27, 2006

SCHEDULE 14A

(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

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

Exchange Act of 1934 (Amendment No. _____)

Filed by the Registrant Filed by a party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, For Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Under Rule 14a-12

PHOENIX TECHNOLOGIES LTD.

(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.

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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 transactions 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:

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(1) Amount previously paid:

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

(3) Filing Party:

(4) Date Filed:

PHOENIX TECHNOLOGIES LTD.

915 Murphy Ranch Road

Milpitas, California 95035

(408) 570-1000

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

TO BE HELD ON MARCH 6, 2006

Notice is hereby given that the Annual Meeting of Stockholders of Phoenix Technologies Ltd. (the Company or Phoenix) will be held at the Company s offices located at 915 Murphy Ranch Road, Milpitas, California, 95035, on March 6, 2006 at 2:00 p.m., Pacific Standard Time, to consider and act upon the following matters:

1. To elect one (1) Class 1 Director to the Board of Directors of the Company;
2. To approve the amendment and restatement of the Company s 2001 Employee Stock Purchase Plan;
3. To ratify the selection by the Audit Committee of the Board of Directors of Ernst & Young LLP as the Company s independent registered public accounting firm for the 2006 fiscal year; and
4. To transact such other business as may properly come before the meeting or any adjournments thereof.

Only stockholders of record at the close of business on January 20, 2006 will be entitled to notice of and to vote at the Annual Meeting or any adjournments thereof. The stock transfer books will not be closed between the record date and the date of the Annual Meeting. A list of stockholders entitled to vote at the Annual Meeting will be available for inspection at the Company s offices for a period of ten days before the Annual Meeting.

All stockholders are cordially invited to attend the meeting. Whether or not you plan to attend, please sign and return the enclosed proxy as promptly as possible in the envelope provided. You may revoke your proxy at any time prior to the Annual Meeting. If you attend and vote at the Annual Meeting, your proxy will be automatically revoked and only your vote at the Annual Meeting will be counted.

By Order of the Board of Directors

/s/ Scott C. Taylor

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Scott C. Taylor

Secretary

January 27, 2006

PROXY STATEMENT

PHOENIX TECHNOLOGIES LTD.

915 Murphy Ranch Road

Milpitas, California 95035

PROXY STATEMENT FOR THE ANNUAL MEETING OF STOCKHOLDERS

To Be Held March 6, 2006

This Proxy Statement is furnished in connection with the solicitation by the Board of Directors of Phoenix Technologies Ltd. (the Company or Phoenix) of proxies for use at the Annual Meeting of Stockholders of the Company to be held on March 6, 2006 (the Meeting) at the Company's offices located at 915 Murphy Ranch Road, Milpitas, California, commencing at 2:00 p.m., Pacific Standard Time, and at any adjournments thereof. All proxies are solicited for the purposes set forth herein and in the Notice of Annual Meeting of Stockholders that accompanies this Proxy Statement. The date of this Proxy Statement is January 27, 2006, the approximate date on which this Proxy Statement and the accompanying form of proxy were first sent or given to stockholders.

We do not expect any matters not listed in the Proxy Statement to come before the Meeting. If any other matter is presented, your signed proxy card gives the individuals named as proxy holders the authority to vote your shares to the extent authorized by Rule 14a-4(c) under the Securities Exchange Act of 1934, as amended, which would include matters that the proxy holders did not know were to be presented at the Meeting 50 days before the Meeting.

General Information

Certain Financial Information. The Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2005 is enclosed with this Proxy Statement.

Voting Securities. Only stockholders of record as of the close of business on January 20, 2006 (the Record Date) will be entitled to vote at the Meeting and any adjournment thereof. As of the Record Date, there were 25,030,619 shares of the Common Stock of the Company issued and outstanding. Stockholders may vote in person or by proxy. Each holder of shares of Common Stock is entitled to one (1) vote on the proposals presented in this Proxy Statement and one vote for each director to be elected for each share of Common Stock held. There is no cumulative voting in connection with the election of directors.

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Quorum. The required quorum for transacting business at the Meeting is a majority of the votes eligible to be cast by holders of shares of Common Stock issued and outstanding on the Record Date. Shares that are voted FOR , AGAINST or WITHHELD from a matter are treated as being present at the Meeting for purposes of establishing a quorum and are also treated as shares entitled to vote at the Meeting (the Votes Cast) with respect to such matter.

Abstentions. While there is no definitive statutory or case law authority in Delaware as to the proper treatment of abstentions, the Company believes that abstentions should be counted for purposes of determining both (i) the presence or absence of a quorum for transacting business and (ii) the total number of Votes Cast with respect to a proposal (other than the election of directors). In the absence of controlling precedent to the contrary, the Company intends to treat abstentions in this manner. Accordingly, abstentions will have the same effect as a vote against the proposal.

Broker Non-Votes. Broker non-votes will be counted for purposes of determining the presence or absence of a quorum for transacting business, but will not be counted for purposes of determining the number of Votes Cast with respect to the particular proposal on which the broker has expressly not voted. Accordingly, broker non-votes will not affect the outcome of the voting on a proposal that requires a majority of the Votes Cast (such as the approval of a benefit plan).

Solicitation of Proxies. The cost of soliciting proxies will be borne by the Company. In addition to soliciting stockholders by mail and through its regular employees, the Company will request brokers, custodians, nominees and other record holders to forward copies of the proxy and other soliciting material to persons for whom they hold shares of Common Stock of the Company, and to request authority for the exercise of proxies; in such cases, the Company, upon request of the record holders, will reimburse such holders for their reasonable expenses. The Company may use the services of its officers, directors and employees to solicit proxies personally or by telephone, facsimile or electronic mail, without additional compensation. The Company has also retained Morrow & Co., Inc. to assist in obtaining proxies for the Meeting from brokers, nominees of stockholders and institutional investors. The estimated fee for such services, which is not contingent upon the outcome of the voting, is \$7,500 plus out-of-pocket expenses.

Voting of Proxies. All shares represented by a valid proxy received prior to the Meeting will be voted, and where a stockholder specifies by means of the proxy a choice with respect to any matter to be acted upon, the shares will be voted in accordance with the specification so made. If no choice is indicated on the proxy, the shares will be voted FOR all nominees, FOR all other proposals described herein and as the proxy holders may determine in their discretion with respect to any other matters that properly come before the Meeting. A stockholder giving a proxy has the power to revoke his or her proxy, at any time prior to the time it is voted, by delivering to the Secretary of the Company a written instrument revoking the proxy or a duly executed proxy with a later date, or by attending the Meeting and voting in person.

PROPOSAL NO. 1**ELECTION OF DIRECTORS**

The Company's nominee for election at the Meeting to Class 1 of the Board of Directors is Anthony P. Morris (the Nominee). Mr. Morris is presently a Class 1 Director of the Company. George C. Huang, currently a Class 1 Director of the Company, has announced his retirement as a Director effective upon the expiration of his current term as a Class 1 Director at the Meeting. The Nominating Committee has initiated a search for potential candidates to fill the vacancy that will be created by Mr. Huang's resignation, and Mr. Huang will continue to be available to the Company on an as-needed advisory basis while the Nominating Committee conducts its search for qualified candidates. Pursuant to the Company's Certificate of Incorporation, vacancies may be filled by the vote of a majority of the remaining Directors and any Director so elected will hold office until the next election of the class for which such Director was elected.

The Company expects the Nominee to be available to serve as a Director. If, however, the Nominee is unable or declines to serve for any reason, proxies may be voted for such substitute nominee as the Board of Directors may designate. Proxies may not be voted for more than one nominee.

The Company's Certificate of Incorporation and Bylaws provide for a classified Board of Directors (the Board) currently consisting of two Class 1 Directors (Messrs. Huang and Morris), three Class 2 Directors (Messrs. Dury, Elgamal and Sun) and two Class 3 Directors (Messrs. Sisto and Noling). The Class 1, 2 and 3 Directors serve staggered three-year terms. The Class 1 Director to be elected at the Meeting will be elected to hold office until the Annual Meeting of Stockholders in 2009 and until his successor has been elected and qualified.

Nominees and Other Directors. The name and age of the Nominee and each director of the Company whose term of office continues after the Meeting, their principal occupations during the past five years and the years they became directors are set forth below. The Nominee is currently serving as a director of the Company.

<u>Director Name</u>	<u>Age</u>	<u>Director</u>		<u>Position and Current Offices with the Company</u>
		<u>Since</u>		
David S. Dury	57	2002		Director
Taher Elgamal	50	2000		Director
Anthony P. Morris	58	1993		Director
Richard M. Noling	56	2005		Director
Albert E. Sisto	56	1999		Director; Chairman; President and Chief Executive Officer
Anthony Sun	53	1998		Director

Mr. Dury was appointed to the Board in October 2002. He is a co-founder and co-owner of Mentor Capital Group, LLC, which provides venture capital and services to start-up companies. Prior to founding Mentor Capital Group in 2000, Mr. Dury served as Senior Vice President and Chief Financial Officer of Aspect Development, Inc. (a supplier of client/server software and reference data products) from 1996 to 2000. From 1992 to 1996, Mr. Dury was Senior Vice President and Chief Financial Officer at NetFrame Systems, Inc. From 1989 to 1992, Mr. Dury was Executive Vice President, Chief Operating Officer and Chief Financial Officer at Boole & Babbage, Inc., and from 1983 to 1989 Mr. Dury served as President, Chief Operating Officer and Chief Financial Officer of Priam Corporation. Mr. Dury also serves on the Board of Directors of Intevac, Inc., and is a director of several privately held companies.

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Dr. Elgamel was appointed to the Board in January 2000. He is the Chairman and Chief Executive Officer of Ektasis, Inc. (an internet software provider). From 1998 to 2005, Dr. Elgamel served as served as Co-Chairman of the Board of Directors and Chief Technology Officer of Securify, Inc. (a network security management software provider Dr. Elgamel founded in 1998). Prior to founding Securify, Dr. Elgamel held the position of Chief Scientist of Netscape Communications Corp. from 1995 to 1998, where he pioneered Internet

security technologies. From 1993 to 1995, Dr. Elgamal was Vice President of Advanced Technologies at UKI Electric. From 1991 to 1993, Dr. Elgamal was the Director of Engineering at RSA Security, Inc. where he produced the RSA cryptographic toolkits. Dr. Elgamal also serves on the Boards of Directors of hi/fn, Inc. and Tumbleweed Communications Corp.

Mr. Morris was appointed to the Board in 1993. Mr. Morris is a principal with Morris & Associates, a strategy consulting firm he founded in 1988. Mr. Morris is also a principal in Morris Ventures LLC, a venture capital firm investing in information technology companies, and is a director of several privately held companies.

Mr. Noling was appointed to the Board on September 30 2005. From 2003 to September 2005, Mr. Noling served as the Chief Executive Officer of ThinGap Motor Technologies (a manufacturer of brush and brushless motors utilized in the factory automation, defense, automotive and medical device industry). He served as President, Chief Executive Officer and Chief Financial Officer of Insignia Solutions Inc. (a provider of cross-platform compatibility enterprise solutions) from 1997 to 2003. He currently serves as a director at Insignia Solutions Inc.

Mr. Sisto joined the Company as President and Chief Executive Officer and was appointed to the Board in June 1999. He was formerly Chief Operating Officer of RSA Security, Inc. (which provides solutions for establishing online identities, access rights and privileges for people, applications and devices) from 1997 to 1999. He served as President, Chairman and Chief Executive Officer of DocuMagix from 1994 to 1997. From 1989 to 1994, Mr. Sisto was the President and Chief Executive Officer of PixelCraft, Inc. Mr. Sisto currently serves as a director of hi/fn, Inc. and Validity Sensors Inc.

Mr. Sun was appointed to the Board in 1998. From 1979 to the present, Mr. Sun has been a general partner at Venrock Associates, a venture capital firm. Previously, Mr. Sun was employed by Hewlett Packard, TRW and Caere Corporation. Mr. Sun also serves as a director of Cognex Corporation.

Board Independence

Upon consideration of the criteria and requirements regarding director independence set forth in NASD Rules 4200 and 4350, the Board of Directors has determined that each member of the Board of Directors other than Mr. Sisto and Mr. Dury meets the standards of independence established by the NASD.

Meetings and Committees of the Board of Directors

During the fiscal year ended September 30, 2005 (the Last Fiscal Year), the Board of Directors held a total of six regularly scheduled meetings, no special meetings and took additional actions by written consent. During the last fiscal year, each Board member attended at least 75% of the aggregate number of meetings of the Board of Directors and meetings of the committees of the Board of Directors on which he served during the Last Fiscal Year.

The Company encourages full attendance of Board members at all annual meetings. None of the Board members, other than Mr. Sisto, attended the annual meeting which took place in the prior calendar year.

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The Board of Directors has an Audit Committee, a Compensation Committee and a Nominating Committee.

Audit Committee

The members of the Audit Committee are Messrs. Morris, Noling and Elgama. Each member of the Audit Committee is independent as such term is defined in the NASD Rules and Rule 10A(3) of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Mr. Noling serves as the Chairman of the Audit Committee. The Board of Directors has determined that Mr. Noling qualifies as an audit committee financial expert as defined in Item 401(h) of Regulation S-K promulgated by the Securities and

Exchange Commission. During the Last Fiscal Year, the Audit Committee met nineteen times, and took additional actions by written consent. The responsibilities of the Audit Committee include:

overseeing the Company's accounting and financial reporting processes and the audits of the Company's financial statements;

monitoring the integrity of the Company's financial statements;

evaluating the qualifications, independence and performance of the Company's independent registered public accounting firm; and

monitoring and reviewing the performance of the Company's internal audit function.

For a complete listing of the Audit Committee's responsibilities, see the Audit Committee Charter attached as Appendix B to the Company's Proxy Statement dated February 17, 2004 for the Company's 2004 Annual Meeting of Stockholders. For additional information concerning the Audit Committee, see [REPORT OF THE AUDIT COMMITTEE OF THE BOARD OF DIRECTORS](#).

Compensation Committee

The members of the Compensation Committee are Messrs. Sun, Elgamal, Morris and Dury. Mr. Morris serves as the Chairman of the Compensation Committee. Each member of the Compensation Committee other than Mr. Dury is independent as such term is defined in the NASD Rules. Mr. Dury is not independent under the NASD Rules because his wife received \$63,000 from the Company in compensation for consulting services during the twelve month period ended August 31, 2004. However, the Board has determined that the appointment of Mr. Dury to the Compensation Committee is required in the best interests of the Company and its stockholders because of his experience and extensive knowledge regarding executive compensation issues. Mr. Dury's appointment to the Compensation Committee will expire at the Meeting. During the Last Fiscal Year, the Compensation Committee met five times, and took additional actions by written consent. The responsibilities of the Compensation Committee include:

establishing and reviewing the Company's general compensation policies applicable to the Company's Chief Executive Officer and other executive officers;

reviewing and approving the level of compensation, including salaries, fees, benefits, executive incentive plans and perquisites, of the Company's Chief Executive Officer and other executive officers;

establishing and reviewing on an annual basis, the terms and conditions of employment of the executive officers, including, without limitation, executive perquisites and change of control benefits;

administering the Company's stock-based incentive compensation plans; and

reviewing and advising the Board concerning the performance of the Company's Chief Executive Officer and other executive officers;

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For a complete listing of the Compensation Committee's responsibilities, please refer to the Compensation Committee Charter attached hereto as Appendix B. For additional information concerning the Compensation Committee, see Compensation Committee Interlocks and Insider Participation and REPORT OF THE COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS ON EXECUTIVE COMPENSATION .

Nominating Committee

The members of the Nominating Committee are Messrs. Elgamal, Dury and and Noling. Each member of the Nominating Committee other than Mr. Dury is independent as such term is defined in the NASD Rules. As described above, Mr. Dury is not independent under the NASD Rules because his wife received \$63,000 from the Company in compensation for consulting services during the twelve month period ended August 31, 2004. However, the Board has determined that the appointment of Mr. Dury to the Nominating Committee is required

in the best interests of the Company and its stockholders because of his experience and extensive knowledge regarding the Company's business, strategy and mission, and his ability to evaluate the extent to which a candidate's background is relevant to the Company's needs.

The Nominating Committee operates pursuant to a charter approved and adopted by the Board by unanimous written consent. A copy of the Nominating Committee charter was attached as Appendix A to the Company's Proxy Statement dated February 17, 2004 for the Company's 2004 Annual Meeting of Stockholders. During the Last Fiscal Year, the Nominating Committee met five times.

The purpose of the Nominating Committee is to establish general qualification guidelines applicable to nominees for election to the Board and to ensure that the Board is appropriately constituted to meet its fiduciary obligations to the Company and its stockholders. The Nominating Committee identifies individuals qualified to become Board members, including nominees suggested by stockholders, and recommends nominees for appointment or election to the Board. The Nominating Committee does not use specific minimum requirements, but considers several factors to determine whether a director candidate is qualified. These factors include, but are not limited to: (a) the extent of a candidate's prior experience dealing with financial and auditing issues of a publicly traded company; (b) the existence of significant training and experience at the policy making level in areas of business, government, education and/or technology; (c) specific past concentration in the areas of strategic planning, finance, business law, and management; and (d) the extent to which the candidate's background is relevant to the Company's mission, strategy and needs. To date, the Company has not paid any fees to any third party to identify or evaluate or assist in identifying or evaluating potential nominees.

The Nominating Committee seeks to have on the Board at least one financial expert as defined in Item 401(h) of Regulation S-K promulgated by the SEC and believes that the majority of the Board must be composed of independent directors as defined in NASD Rules 4200 and 4350.

The Nominating Committee will consider candidates for director from any source, including director candidates recommended by stockholders. No formal procedures exist for the handling of director candidates recommended by stockholders; however, all candidates recommended by stockholders will be evaluated by the Nominating Committee in the same way and by using the same criteria and general guidelines used for all other candidates. Stockholders may submit director recommendations in writing to the Nominating Committee, c/o the Company's Chief Executive Officer at the Company's offices located at 915 Murphy Ranch Road, Milpitas, California 95035.

To date, the Company has not received any recommendations for director candidates from any non-management stockholder or group of stockholders that beneficially owns more than five percent of the Company's voting stock. Each nominee included on this year's proxy card is an executive officer and/or director standing for re-election.

Stockholder Communications with Directors

The Board of Directors welcomes communications from the Company's stockholders. Any stockholder may communicate with either the Board as a whole, or with any individual director by sending a written communication c/o the Company's Chief Executive Officer at the Company's offices located at 915 Murphy Ranch Road, Milpitas, California 95035. All communications sent to the Company's Chief Executive Officer will be forwarded to the Board, as a whole, or to the individual director to whom such communication was addressed without review by management.

Compensation of Directors

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Members of the Board who are not employees of the Company (Outside Directors) are entitled to receive an annual retainer of \$20,000, a fee of \$1,500 for each meeting of the Board of Directors they attend in person and a fee of \$1,000 for each telephonic meeting of the Board of Directors that they attend. In addition, members

of each Board Committee, other than the Audit Committee, are entitled to receive a fee of \$1,000 for each Committee meeting they attend in person and a fee of \$500 for each telephonic Committee meeting that they attend. Members of the Audit Committee are entitled to receive a fee of \$1,500 for each Audit Committee meeting they attend in person and a fee of \$1,000 for each telephonic Audit Committee meeting they attend. Additionally, the Chairman of each Committee, other than the Audit Committee, is entitled to receive an annual retainer of \$3,000. The Audit Committee chair person is entitled to receive an annual retainer of \$7,500. Outside Directors who reside outside of the local area are also entitled to receive reimbursement of travel expenses.

Outside Directors have received options to purchase Common Stock pursuant to the Company's 1992, 1994, 1996, 1997, 1998 and 1999 equity incentive plans, and the 1995 Award Software International Inc. Stock Option Plan. Outside Directors currently receive options under the 1999 Stock Plan and the 1999 Director Option Plan. The actual number of shares to be subject to the options granted for Board and committee service is established by the 1999 Director Option Plan. Under the 1999 Director Option Plan, Outside Directors receive an initial grant of 40,000 shares upon their initial appointment to the Board and subsequent annual grants of 15,000 shares. Board member options vest and become exercisable for 100% of the shares on the date of grant and have a term of ten years. During the Last Fiscal Year, the Company granted stock options for 15,000 shares to each of Messrs. Dury, Elgamal, Huang, Morris and Sun and for 40,000 shares to Mr. Noling, in each case having an exercise price equal to the fair market value of the Company's Common Stock on the date of grant.

Required Vote

If a quorum is present, Directors shall be elected by the affirmative vote of the holders of a plurality of the shares of Common Stock present or represented at the Meeting.

The Board of Directors Recommends a Vote FOR

the Election of Mr. Morris

PROPOSAL NO. 2

APPROVAL OF THE 2001 EMPLOYEE STOCK PURCHASE PLAN,

AS AMENDED AND RESTATED

In November of 2001, the Board of Directors adopted, and the stockholders of the Company subsequently approved, the 2001 Employee Stock Purchase Plan (the "Plan"). As a result of a series of amendments adopted by the Board and subsequently approved by the stockholders, the Company has reserved 750,000 shares of Common Stock for issuance under the Plan. As of January 20, 2006, approximately 676,457 shares had been issued under the Plan and approximately 73,543 shares remained reserved for future issuance. As of January 20, 2006, the fair market value of a share of the Company's Common Stock was \$6.73.

Proposal

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On November 1, 2005, the Board of Directors amended and restated the Plan, among other things, to: (a) increase the number of shares reserved under the Plan by 500,000 shares from 750,000 shares to 1,250,000 shares and (b) increase the maximum amount of compensation that a participant may contribute under the Plan through payroll deductions from 10% to 20%, in each case subject to stockholder approval. At the Meeting, the stockholders are being asked to approve the Plan as amended and restated.

Summary of the 2001 Employee Stock Purchase Plan, as Amended and Restated

General. The purpose of the Plan is to offer eligible employees the opportunity to acquire a stock ownership interest in the Company through the purchase of Common Stock at a discount by means of periodic after-tax payroll deductions. The Plan is intended to qualify under Section 423 of the Internal Revenue Code of 1986, as amended (the Code).

Administration. The Plan is administered by the Board of Directors of the Company or a committee appointed by the Board (the Administrator). At the present time, the Plan is administered by the Compensation Committee. All questions of interpretation or application of the Plan are determined by the Administrator.

Offering Periods. Offering periods under the Plan (each, an Offering Period) shall be of periods not to exceed the maximum period permitted by Section 423 of the Code. In addition, Offering Periods shall be concurrent and commence each June 1 and December 1 of each calendar year or at such other time or times as may be determined by the Administrator. The first business day of an Offering Period is referred to as the Offering Date. Until determined otherwise by the Administrator, each Offering Period shall consist of four (4) six-month purchase periods (individually, a Purchase Period) during which payroll deductions of participating employees are accumulated under the Plan. The last date of each applicable Purchase Period is referred to as the Purchase Date. The Plan also provides that if on any Purchase Date during an Offering Period the fair market value of the Common Stock is lower than the fair market value of the Common Stock on the applicable Offering Date, then, following the purchase of shares, the Offering Period would terminate and participants in the terminated Offering Period would be enrolled automatically in a new Offering Period that would start on the first business day immediately following the Purchase Date.

Eligibility and Participation. Employees (including officers and employee directors) who are employed for at least 20 hours per week and more than five months in any calendar year and who are employed by the Company as of an Offering Date are eligible to participate in the related Offering Period under the Plan, subject to certain limitations imposed by Section 423(b) of the Code and the Plan. For example, no employee shall be granted an option under the Plan if immediately after the grant such employee would own stock and/or hold outstanding options to purchase stock possessing five percent (5%) or more of the total voting power or value of all classes of stock of the Company or its subsidiaries. In addition, the Plan provides that, at the discretion of the Board of Directors, certain executive officers of the Company may be excluded from participating in an Offering Period. An eligible employee will only be permitted to participate in one Offering Period at a time. As of January 20, 2006, approximately 426 employees (including officers and employee directors) were eligible to participate in the Plan.

Eligible employees become participants in the Plan by submitting an enrollment form authorizing payroll deductions prior to the applicable Offering Date, unless a later time for filing the enrollment form has been set by the Administrator. Once a participant enrolls in an Offering Period under the Plan, such participant will automatically be enrolled in subsequent Offering Periods unless the participant withdraws from the then-current Offering Period. Payroll deductions shall commence on the first payroll following the Offering Date and shall continue until the participant withdraws from the Offering Period to which the enrollment form is applicable or any subsequent Offering Period in which the participant is participating.

Grant and Exercise of Option. At the beginning of an Offering Period, each participant is granted an option to purchase up to that number of shares in each Purchase Period determined by dividing such participant's payroll deductions accumulated during the Purchase Period and retained in the participant's account as of the end of the Purchase Period by the lower of (i) 85% of the fair market value of a share of the Company's Common Stock on the Offering Date or (ii) 85% of the fair market value of a share of the Company's Common Stock on the applicable Purchase Date; provided that in no event shall a participant be permitted (A) to purchase stock under the Plan at a rate which, when aggregated with such participant's rights to purchase stock under all other employee stock purchase plans of the Company and its subsidiaries, exceeds \$25,000 in fair market value of such stock (determined as of the Offering Date) for each calendar year in which such option is outstanding at any time or (B) to purchase more than 2,000 shares of the Company's Common Stock on any Purchase Date. In addition, the Company may make a pro rata reduction in the number of shares subject to options if the total number of shares which would otherwise be purchased on a Purchase Date by all employees participating in the Plan exceeds the number of remaining available shares in the Plan.

Unless an employee withdraws his or her participation in the Plan by giving written notice to the Company of his or her election to withdraw all accumulated payroll deductions prior to the end of a Purchase Period, the

employee's option for the purchase of shares will be exercised automatically at the end of the Purchase Period, and the maximum number of full shares subject to option which are purchasable with the accumulated payroll deductions in his or her account will be purchased at the applicable purchase price determined as provided below.

During his or her lifetime, a participant's option to purchase shares under the Plan is exercisable only by him or her. However, a participant may file a written designation of a beneficiary who is (i) to receive any shares and cash, if any, from the participant's account under the Plan in the event of such participant's death subsequent to the end of a Purchase Period but prior to delivery to him or her of such shares and cash, and (ii) to receive any cash from the participant's account under the Plan in the event of such participant's death prior to a Purchase Date.

Purchase Price. The purchase price per share at which shares are sold to participating employees under the Plan is the lower of (i) 85% of the fair market value of a share of Common Stock on the Offering Date, and (ii) 85% of the fair market value of a share of Common Stock on the applicable Purchase Date. The fair market value of a share of Common Stock on a given date shall be either the closing price of the Common Stock on the NASDAQ National Market System on the applicable date or the average closing price of the Common Stock over the number of consecutive trading days preceding such date as determined by the Board of Directors.

Payroll Deductions. The purchase price of the shares to be acquired under the Plan is accumulated by after-tax payroll deductions during each Purchase Period. The deductions may not be more than 20% (designated in increments of not less than 1%) of a participant's compensation during a Purchase Period (or may be based on a specific dollar amount not less than \$5 per pay period and not more than 20% of a participant's compensation). A participant may terminate his or her participation in the Plan, may increase or decrease his or her rate of payroll deductions one time each during a Purchase Period, and may reduce his or her rate of payroll deductions to 0% once during a Purchase Period, which will not be deemed a withdrawal from the Offering Period or the Plan. Payroll deductions for a participant shall commence on the first payroll following the Offering Date and shall continue until his or her withdrawal from an Offering Period or his or her participation terminates as provided in the Plan.

Termination of Employment. Termination of a participant's employment for any reason, including retirement or death, or the failure of the participant to remain in the continuous employ of the Company for at least 20 hours per week and more than five (5) months in any calendar year during the applicable Offering Period, cancels his or her option and his or her participation in the Plan immediately. In such event, the payroll deductions credited to the participant's account will be returned (without interest) to him or her or, in the case of death, to the person or persons entitled thereto as provided in the Plan.

Adjustments Upon Changes in Capitalization. Subject to any required action by the stockholders of the Company, in the event any change is made in the Company's capitalization in the middle of an Offering Period, such as a stock split, stock dividend, combination or reclassification, that results in an increase or decrease in the number of shares of Common Stock outstanding without receipt of consideration by the Company, appropriate adjustment shall be made in the purchase price and in the number of shares subject to options under the Plan.

In the event of a proposed dissolution or liquidation of the Company, the Offering Period will terminate immediately prior to the consummation of such proposed action, unless otherwise provided by the Board of Directors. In the event of a proposed sale of all or substantially all of the assets of the Company, or the merger of the Company with or into another corporation, each option under the Plan shall be assumed or an equivalent substitute option shall be substituted by such successor corporation or a parent or subsidiary of such successor corporation, unless the Board of Directors elects to shorten the Offering Period then in progress by setting a new Purchase Date and notifying the optionees of the change in their Purchase Date.

Amendment and Termination of the Plan. The Board of Directors may at any time amend or terminate the Plan without the approval of the stockholders, except that such termination cannot affect options previously

granted nor may an amendment make any change in an option granted prior thereto which adversely affects the rights of any participant. No amendment may be made to the Plan without approval of the stockholders of the Company if such amendment would increase the number of shares reserved under the Plan or change the class of employees eligible to participate in the Plan.

The Plan shall expire in 2011 unless sooner terminated by the Board of Directors, provided that any options then outstanding under the Plan shall remain outstanding until they expire by their terms.

Plan Benefits. The following table sets forth information as of January 20, 2006 with respect to the number of shares purchased under the Plan since its adoption and the weighted average purchase price for such shares for (i) the Chief Executive Officer and each executive officer included in the Summary Compensation Table in the EXECUTIVE COMPENSATION section of this Proxy Statement, (ii) all current executive officers as a group, and (iii) all employees (including all current officers who are not executive officers) as a group. Directors and nominees for director who are not executive officers or employees of the Company and consultants are not eligible to participate in the Plan. No person has received more than 5% of the total number of shares purchased under the Plan.

Name of Individual or Group	Number of Shares Purchased under the Plan	Weighted Average Purchase Price Per Share
Albert E. Sisto	0	N/A
W. Curtis Francis	0	N/A
David L. Gibbs	2,230	\$6.07
Randall C. Bolten*	0	N/A
Ramesh Kesanupalli	0	N/A
All current executive officers as a group (6 persons*)	8,683	\$5.48
Associates of Directors, Executive Officers and Nominees	0	N/A
All employees (including all current officers who are not executive officers) as a group (418 persons)	667,774	\$5.35

* Mr. Bolten resigned as the Company's Senior Vice President and Chief Financial Officer effective as of January 10, 2006.

Tax Information

The Plan and the options granted under the Plan are intended to qualify for favorable federal income tax treatment associated with rights granted under an employee stock purchase plan that qualifies under provisions of Section 423 of the Code.

A participant will be taxed on amounts withheld for the purchase of shares of Common Stock as if such amounts were actually received. Other than this, no income will be taxable to a participant until disposition of the acquired shares, and the method of taxation will depend upon the holding period of the acquired shares.

If the stock is disposed of at least two (2) years after the beginning of the Offering Period and at least one (1) year after the stock is transferred to the participant, then the lesser of (i) the excess of the fair market value of the stock at the time of such disposition over the purchase price or (ii) the excess of the fair market value of the stock as of the Offering Date over the purchase price (determined as of the Offering Date) will be treated as ordinary income. Any further gain or any loss will be taxed as a long-term capital gain or loss. Such capital gains currently are

generally subject to lower tax rates than ordinary income.

If the stock is sold or disposed of before the expiration of either of the holding periods described above, then the excess of the fair market value of the stock on the Purchase Date over the purchase price will be treated as ordinary income at the time of such disposition. The balance of any gain will be treated as capital gain. Even if the stock is later disposed of for less than its fair market value on the Purchase Date, the same amount of ordinary income is attributed to the participant, and a capital loss is recognized equal to the difference between the sales price and the fair market value of the stock on such Purchase Date. Any capital gain or loss will be short-term or long-term, depending on how long the stock has been held.

There are no federal income tax consequences to the Company by reason of the grant or exercise of options under the Plan. The Company is entitled to a deduction to the extent amounts are taxed as ordinary income to a participant.

The foregoing is only a summary of the effect of federal income taxation upon the participant and the Company with respect to the shares purchased under the Plan. Reference should be made to the applicable provisions of the Code. In addition, the summary does not discuss the tax consequences of a participant's death or the income tax laws of any state or foreign country in which the participant may reside.

Required Vote

If a quorum is present, the affirmative vote of the holders of a majority of the shares of Common Stock present or represented at the Meeting and voting on the matter is required for approval of Proposal No. 2.

The Board of Directors Recommends a Vote FOR

Approval of the 2001 Employee Stock Purchase Plan, as Amended and Restated

PROPOSAL NO. 3

RATIFICATION OF APPOINTMENT OF INDEPENDENT

REGISTERED PUBLIC ACCOUNTING FIRM

The Audit Committee of the Board of Directors has selected the firm of Ernst & Young LLP to continue to serve as the Company's independent registered public accounting firm for the fiscal year ending September 30, 2006. The Company is asking stockholders to ratify this appointment. If ratification by the stockholders of the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm is not obtained, the Audit Committee will reconsider this appointment. Even if the appointment is ratified, the Audit Committee, in its discretion, may appoint a different independent registered public accounting firm at any time during the year if the Audit Committee determines that such a change would be in the best interests of the Company and its stockholders.

Representatives of Ernst & Young LLP are expected to be present at the Meeting. They will have the opportunity to make a statement if they desire to do so and are also expected to be available to respond to appropriate questions from stockholders.

Required Vote

If a quorum is present, the affirmative vote of the holders of a majority of the shares of Common Stock present or represented at the Meeting and voting on the matter is required for approval of Proposal No. 3.

The Board of Directors Recommends a Vote FOR Ratification of the Appointment of Ernst & Young LLP as the Company's Independent Registered Public Accounting Firm for the Fiscal Year Ending September 30, 2006

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth certain information as of January 20, 2006, with respect to the Common Stock owned beneficially by (i) any person who is known to the Company to be the beneficial owner of more than five percent of its Common Stock, (ii) each director and director-nominee of the Company, (iii) the Chief Executive Officer and each executive officer included in the Summary Compensation Table in the EXECUTIVE COMPENSATION section (collectively, the Named Executive Officers), and (iv) all current directors and executive officers of the Company as a group. Except as otherwise indicated in the table, the address of each person listed in the table is c/o Phoenix Technologies Ltd., 915 Murphy Ranch Road, Milpitas, California 95035. Except as otherwise indicated in the footnotes to the table, to the Company's knowledge, the persons named in the table have sole voting and investment power with respect to all shares of Common Stock shown as beneficially owned by them, subject to community property laws where applicable.

Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Common Stock Outstanding(1)
The TCW Group, Inc.(2) 865 South Figueroa Street Los Angeles, CA 90017	1,312,751	5.2%
Royce & Associates, LLC(3) 1414 Avenue of the Americas New York, NY 10019	1,257,800	5.0%
The Clark Estates, Inc.(4) One Rockefeller Plaza, 31 st Floor New York, NY 10020	1,257,635	5.0%
George C. Huang(5)	856,039	3.4%
Albert E. Sisto(6)	809,454	3.1%
David L. Gibbs(7)	288,421	1.1%
W. Curtis Francis(8)	257,864	1.0%
Anthony Sun(9)	178,600	*
Randall C. Bolten(10)	151,535	*
Anthony Morris(11)	135,000	*
Taher Elgamal(12)	115,000	*
Dave Dury(13)	85,000	*
Ramesh Kesanupalli(14)	57,751	*
Richard Noling(15)	40,000	*
All current directors and executive officers as a group (12 persons)(16)	3,010,648	11.0%

* Ownership is less than 1%

- (1) In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares of Common Stock subject to options or warrants held by that person that are currently exercisable or exercisable within 60 days after January 20, 2006, are deemed outstanding. Such shares, however, are not deemed outstanding for the purpose of computing the percentage ownership of any other person.
- (2) Based on information contained in a Schedule 13G/A filed on July 10, 2005 with the Securities and Exchange Commission by The TCW Group, Inc. on behalf of itself and other relevant subsidiaries named therein (TCW). According to the Schedule 13G/A, TCW is primarily engaged in the provision of investment management services and shares dispositive power with respect to all of the reported shares and

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shares voting power with respect to 1,159,929 shares.

- (3) Based on information contained in a Schedule 13G filed on February 2, 2005 with the Securities and Exchange Commission by Royce & Associates, LLC. According to the Schedule 13G, Royce & Associates is a registered investment advisor and has sole voting and dispositive power with respect to all of the reported shares.

- (4) Based on information contained in a Schedule 13G/A filed on February 11, 2005 with the Securities and Exchange Commission by The Clark Estates, Inc. According to the Schedule 13G/A, The Clark Estates has sole voting and dispositive power with respect to all of the reported shares.
- (5) Consists of (i) 4,608 shares owned by Dr. Huang; (ii) 171,884 shares held by the George C. Huang and Margaret J. Huang Charitable Foundation, (iii) 330,422 shares held by the Huang Living Trust, and (iv) 349,125 shares as to which Dr. Huang could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (6) Consists of 60,000 shares owned by Mr. Sisto, and 749,454 shares as to which Mr. Sisto could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (7) Consists of 13,230 shares owned by Mr. Gibbs, and 275,191 shares as to which Mr. Gibbs could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (8) Consists of 10,000 shares owned by Mr. Francis, and 247,864 shares as to which Mr. Francis could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (9) Includes 32,975 shares owned by Mr. Sun, and 145,625 shares as to which Mr. Sun could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (10) Consists 151,535 shares as to which Mr. Bolten could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (11) Consists of (i) 12,000 shares owned by Mr. Morris, (ii) 5,000 shares held in a custodial account by his spouse for his minor daughters, and 118,000 shares as to which Mr. Morris could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (12) Consists of 115,000 shares as to which Mr. Elgama could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (13) Consists of 85,000 shares as to which Mr. Dury could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (14) Consists of 57,571 shares as to which Mr., Kesanupalli could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (15) Consists of 40,000 shares as to which Mr. Noling could acquire beneficial ownership at or within 60 days after January 20, 2006.
- (16) Includes 2,367,077 shares issuable upon exercise of outstanding options exercisable within 60 days of January 20, 2006, and includes shares owned and shares issuable upon exercise of outstanding options exercisable within 60 days of January 20, 2006 held by Randall Bolten, who resigned as the Company's Senior Vice President and Chief Financial Officer effective as of January 10, 2006.

EXECUTIVE COMPENSATION

The following table sets forth information concerning the compensation of (i) the Chief Executive Officer of the Company, and (ii) the four other most highly compensated executive officers of the Company (based on salary plus bonus for the Last Fiscal Year) who were serving as such at the end of the Last Fiscal Year:

Summary Compensation Table

Name and Principal Position	Annual Compensation				Long Term Compensation		
	Fiscal Year	Salary (\$)	Bonus (\$)	Other Annual Compensation (\$)	Restricted Stock Awards \$(1)	Securities Underlying Options (#)	All Other Compensation (\$)
Albert E. Sisto	2005	400,000	193,984			155,248	
	2004	400,000	80,000	8,505(2)		50,000	
Chairman, President and Chief Executive Officer	2003	400,000	37,800	9,359(2)	107,600		