

MASIMO CORP  
Form DEF 14A  
April 27, 2012

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**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 Pursuant to §240.14a-12

**MASIMO CORPORATION**

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

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**MASIMO CORPORATION**

**40 Parker**

**Irvine, California 92618**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**TO BE HELD ON JUNE 7, 2012**

Dear Stockholder:

You are cordially invited to attend the Annual Meeting of Stockholders (the "Annual Meeting") of Masimo Corporation, a Delaware corporation (the "Company"), or any adjournment or postponement thereof. The meeting will be held on Thursday, June 7, 2012, at 2:00 p.m. Pacific Time at the principal executive offices of the Company at 40 Parker, Irvine, California 92618, for the following purposes:

1. To elect the following nominees as Class II directors to serve until our 2015 annual meeting of stockholders: Mr. Edward L. Cahill and Dr. Robert Coleman.
2. To ratify the selection by the Audit Committee of the Board of Directors of Grant Thornton LLP as our independent auditors for our fiscal year ending December 29, 2012.
3. An advisory (nonbinding) vote to approve named executive officer compensation, as presented in this Proxy Statement accompanying this Notice.
4. To conduct any other business properly brought before the Annual Meeting and any adjournment or postponement thereof. These items of business are more fully described in the Proxy Statement accompanying this Notice.

The record date for the Annual Meeting is April 16, 2012. Only stockholders of record at the close of business on that date may vote at the Annual Meeting or any adjournment or postponement thereof. This notice is being mailed to all stockholders of record entitled to vote at the Annual Meeting on or about April 27, 2012.

By Order of the Board of Directors

Joe Kiani  
*Chairman & Chief Executive Officer*

Irvine, California

April 27, 2012

**YOU ARE CORDIALLY INVITED TO ATTEND THE MEETING IN PERSON. WHETHER OR NOT YOU EXPECT TO ATTEND THE MEETING, PLEASE COMPLETE, DATE, SIGN AND RETURN THE ENCLOSED PROXY OR SUBMIT YOUR PROXY THROUGH THE INTERNET OR BY TELEPHONE AS PROMPTLY AS POSSIBLE IN ORDER TO ENSURE YOUR REPRESENTATION AT THE MEETING. A RETURN ENVELOPE (WHICH IS POSTAGE PREPAID IF MAILED IN THE UNITED STATES) IS ENCLOSED FOR YOUR CONVENIENCE IF YOU CHOOSE TO SUBMIT YOUR PROXY BY MAIL. EVEN**

**IF YOU HAVE VOTED BY PROXY, YOU MAY STILL VOTE IN PERSON IF YOU ATTEND THE MEETING. PLEASE NOTE, HOWEVER, THAT IF YOUR SHARES ARE HELD OF RECORD BY A BROKER, BANK OR OTHER NOMINEE AND YOU WISH TO VOTE AT THE MEETING, YOU MUST OBTAIN A PROXY ISSUED IN YOUR NAME FROM THAT RECORD HOLDER.**

**MASIMO CORPORATION**

**40 Parker**

**Irvine, CA 92618**

**PROXY STATEMENT**

**FOR THE 2012 ANNUAL MEETING OF STOCKHOLDERS**

**TO BE HELD ON JUNE 7, 2012**

**QUESTIONS AND ANSWERS ABOUT THIS PROXY MATERIAL AND VOTING**

**Why am I receiving these materials?**

We sent you this Proxy Statement and the enclosed proxy card because the Board of Directors (the "Board") of Masimo Corporation (sometimes referred to as "we", "Masimo" or the "Company") is soliciting your proxy to vote at the 2012 Annual Meeting of Stockholders, or any adjournment or postponement thereof (the "Annual Meeting"). You are invited to attend the Annual Meeting and we request that you vote on the proposals described in this Proxy Statement. However, you do not need to attend the Annual Meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card or submit your proxy through the Internet or by telephone according to the instructions contained in the enclosed proxy card.

We intend to mail this Proxy Statement and the accompanying proxy card on or about April 27, 2012 to all stockholders of record entitled to vote at the Annual Meeting.

**When and where will the Annual Meeting be held?**

The Annual Meeting will be held on June 7, 2012, at 2:00 p.m. Pacific Time at our offices located at 40 Parker, Irvine, California 92618. Directions are set forth on the back of this Proxy Statement.

**Who can vote at the Annual Meeting?**

Only stockholders of record at the close of business on April 16, 2012 will be entitled to vote at the Annual Meeting. At the close of business on this record date, there were 57,124,116 shares of common stock outstanding and entitled to vote and no shares of preferred stock outstanding or entitled to vote. The holders of common stock will have one vote for each share of common stock they owned as of the close of business on April 16, 2012.

***Stockholder of Record: Shares Registered in Your Name***

If at the close of business on April 16, 2012 your shares of common stock were registered directly in your name with our transfer agent, Computershare, Inc., then you are a stockholder of record of these shares. As a stockholder of record, you may vote either in person at the Annual Meeting or by proxy. Whether or not you plan to attend the Annual Meeting, we urge you to complete and return the enclosed proxy card or submit your proxy through the Internet or by telephone by following the instructions provided in the proxy card to ensure that your vote is counted.

***Beneficial Owner: Shares Registered in the Name of a Broker, Bank or Other Agent***

If at the close of business on April 16, 2012 your shares of common stock were held, not in your name, but rather in an account at a brokerage firm, bank, dealer or other similar organization, then you are the beneficial owner of shares held in "street name" and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered the stockholder of record for purposes of voting at the Annual Meeting. As a beneficial owner, you have the right to direct your broker, bank or other agent regarding how to vote the shares in your account. Certain of these institutions offer the ability to direct your agent how to vote through the Internet or by telephone. You are also invited to attend the Annual Meeting. However, because you are not the stockholder of record, you may not vote your shares in person at the Annual Meeting unless you request and obtain a valid proxy issued in your name from your broker, bank or other agent considered the stockholder of record of the shares.



**What am I voting on?**

There are three matters scheduled for a vote at the Annual Meeting:

Election of two Class II nominees for director to serve until our 2015 annual meeting of stockholders or until their successors are duly elected and qualified;

Ratification of the selection by the Audit Committee of our Board of Directors of Grant Thornton LLP as our independent auditors for our fiscal year ending December 29, 2012; and

Advisory (nonbinding) vote to approve named executive officer compensation, as presented in this Proxy Statement.

**Will there be any other items of business on the agenda?**

Aside from the election of directors, ratification of the selection of the independent registered public accounting firm, and the advisory vote to approve the compensation of our named executive officers, the Board knows of no matters to be presented at the Annual Meeting. If any other matter should be presented at the Annual Meeting upon which a vote properly may be taken, shares represented by all proxies received by the Board will be voted with respect thereto in accordance with the judgment of the persons named as attorneys-in-fact in the proxies.

**What is the Masimo Board's voting recommendation?**

Masimo's Board recommends that you vote your shares:

For both of the nominees to the Board;

For the ratification of the Audit Committee's selection of Grant Thornton LLP as Masimo's independent registered public accounting firm; and

For the approval, on an advisory basis, of our named executive officer compensation, as set forth in this Proxy Statement.

**How do I vote?**

For each proposal, you may vote For or Against or abstain from voting. The procedures for voting are described below, based upon your form of ownership.

***Stockholder of Record: Shares Registered in Your Name***

If you are a stockholder of record, you may vote in person at the Annual Meeting. We will give you a ballot when you arrive.

If you do not wish to vote in person or you will not be attending the Annual Meeting, you may vote by proxy. You may vote by proxy using the enclosed proxy card, vote by proxy on the Internet or vote by proxy over the telephone. The procedures for voting by proxy are as follows:

To vote by proxy using the enclosed proxy card, complete, sign and date your proxy card and return it promptly in the envelope provided.



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To vote by proxy on the Internet, go to [www.investorvote.com/MASI](http://www.investorvote.com/MASI) and follow the instructions set forth on the Internet site.

To vote by proxy over the telephone, dial the toll-free phone number listed on your proxy card under the heading **Vote by telephone** using a touch-tone phone and follow the recorded instructions.

If you vote by proxy, your vote must be received by 1:00 a.m. Central Time on June 7, 2012, to be counted.

**We provide Internet and telephone proxy voting with procedures designed to ensure the authenticity and correctness of your proxy vote instructions. However, please be aware that you must bear any costs associated with your Internet and telephone access, such as usage charges from Internet access providers and telephone companies.**

***Beneficial Owner: Shares Registered in the Name of Your Broker, Bank or Other Agent***

If you are a beneficial owner of shares registered in the name of your broker, bank or other agent, you should have received a proxy card and voting instructions with these proxy materials from that organization rather than from Masimo. To ensure that your vote is counted, simply complete and mail the proxy card or, if provided by your agent, follow the instructions for submitting your proxy through the Internet or by phone. To vote in person at the Annual Meeting, you must obtain a valid proxy from your broker, bank or other agent in whose name the shares are registered. Follow the instructions from your broker, bank or other agent included with these proxy materials, or contact your broker, bank or other agent to request a proxy form.

**How do I vote my Masimo shares held through the Masimo Retirement Savings Plan?**

If you hold shares of Masimo common stock through the Masimo Retirement Savings Plan (the Savings Plan) as of the record date, your proxy will also serve as a voting instruction for Principal Financial Group (Principal), which serves as the administrator of the Savings Plan, with respect to shares of Masimo common stock that you hold through the Savings Plan. You should sign the proxy card and return it in the enclosed envelope, or you may submit your proxy over the Internet or by telephone by following the instructions on the enclosed card. We will notify Principal of the manner in which you have directed your Savings Plan shares to be voted. Principal will vote your Savings Plan shares as of the record date in the manner that you direct. If we do not receive your voting instructions from you by June 5, 2012, Principal will vote your Savings Plan shares as of the record date in the same manner, proportionally, as it votes the other shares of common stock for which proper and timely voting instructions of other Savings Plan participants have been received by Principal.

**How many votes do I have?**

On each matter to be voted upon, holders of common stock will have one vote for each share of common stock they owned as of the close of business on April 16, 2012, the record date for the Annual Meeting.

**Will my vote be kept confidential?**

Proxies, ballots and voting tabulations are handled on a confidential basis to protect your voting privacy. This information will not be disclosed, except as required by law.

**Who is paying for this proxy solicitation?**

We will bear the cost of soliciting proxies for the Annual Meeting. We will ask banks, brokerage houses, fiduciaries and custodians holding shares of Masimo common stock in their names for others to send proxy materials to and obtain proxies from the beneficial owners of such shares, and we will reimburse them for their reasonable expenses in doing so. In addition, we have retained Georgeson Inc. to act as a proxy solicitor in conjunction with the Annual Meeting and expect to pay the firm between \$15,000 and \$25,000 in fees, reasonable expenses, costs and disbursements for proxy solicitation services. We and our directors, officers and regular employees may supplement the proxy solicitor's solicitation of proxies by mail, personally, by telephone or by other appropriate means. No additional compensation will be paid to directors, officers or other regular employees for such services.

**What does it mean if I receive more than one proxy card?**

If you receive more than one proxy card, your shares are registered in more than one name or are registered in different accounts. Please complete, sign and return **each** proxy card to ensure that all of your shares are voted.

**Can I change my vote after submitting my proxy?**

Yes. You can revoke your proxy at any time before the final vote at the Annual Meeting. If you are a stockholder of record, you may revoke your proxy in any one of three ways:

You may submit another properly completed and executed proxy card with a later date;

You may submit a new proxy through the Internet or by telephone (1-800-652-VOTE) (your latest Internet or telephone instructions submitted prior to the deadline will be followed);

You may send a written notice that you are revoking your proxy to our Corporate Secretary, c/o Masimo Corporation, 40 Parker, Irvine, California 92618; or

You may attend the Annual Meeting and vote in person. However, simply attending the Annual Meeting will not, by itself, revoke your proxy.

If you are a beneficial owner of shares registered in the name of your broker, bank or other agent, follow the voting instructions from that organization included with these proxy materials, or contact that organization to determine how you may revoke your proxy.

Votes will be counted by the inspector of election appointed for the Annual Meeting.

**How are my shares voted if I give no specific instruction?**

We must vote your shares as you have instructed. If there is a matter on which a stockholder of record has given no specific instruction but has authorized us generally to vote the shares, they will be voted as follows:

For the election of the two Class II director nominees;

For the ratification of the selection of Grant Thornton LLP as our independent registered public accounting firm for the fiscal year ending December 29, 2012; and

For the approval, on an advisory basis, of our named executive officer compensation, as set forth in this Proxy Statement. This authorization would exist, for example, if a stockholder of record merely signs, dates and returns the proxy card but does not indicate how its shares are to be voted on one or more proposals. If other matters properly come before the Annual Meeting and you do not provide specific voting instructions, your shares will be voted at the discretion of the proxies.

If your shares are held in street name, see **What is a broker non-vote?** below regarding the ability of banks, brokers, and other such holders of record to vote the uninstructed shares of their customers or other beneficial owners in their discretion and regarding broker non-votes.

**What is a broker non-vote?**

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Under rules that govern banks, brokers and others who have record ownership of company stock held in brokerage accounts for their clients who beneficially own the shares, these banks, brokers and other such holders who do not receive voting instructions from their clients have the discretion to vote uninstructed shares on certain matters ( discretionary matters ) but do not have discretion to vote uninstructed shares as to certain other matters ( non-discretionary matters ). A broker may return a proxy card on behalf of a beneficial owner from whom the

broker has not received voting instructions that casts a vote with regard to discretionary matters but expressly states that the broker is not voting as to non-discretionary matters. The broker's inability to vote with respect to the non-discretionary matters with respect to which the broker has not received voting instructions from the beneficial owner is referred to as a broker non-vote.

**What are the voting requirements that apply to the proposals discussed in this Proxy Statement?**

<b>Proposal</b>	<b>Vote Required</b>	<b>Discretionary Voting Allowed?</b>
1. Election of Directors	Majority	No
2. Ratification of Auditors	Majority	Yes
3. Advisory Vote to Approve our Executive Compensation Program	Majority	No

A majority means:

with regard to the election of directors, the number of votes cast for a nominee's election must exceed the number of votes cast against such nominee's election; and

with regard to the ratification of auditors and the advisory vote to approve our executive compensation program, the proposal receives a number of for votes that is a majority of the shares of common stock present in person or represented by proxy and entitled to vote at the Annual Meeting.

Discretionary voting occurs when a bank, broker, or other holder of record does not receive voting instructions from the beneficial owner and votes those shares at its discretion on any proposal as to which rules permit such bank, broker, or other holder of record to vote. As noted above, when banks, brokers, and other holders of record are not permitted under the rules to vote the beneficial owner's shares, the affected shares are referred to as broker non-votes.

Although the advisory vote on Proposal 3 is non-binding, as provided by law, our Board will review the results of the votes and, consistent with our record of shareowner engagement, will consider the results in making a determination concerning executive compensation.

**What is the effect of abstentions and broker non-votes?**

*Abstentions:* Under Delaware law (under which Masimo is incorporated), abstentions are counted as shares present and entitled to vote at the Annual Meeting. Therefore, abstentions will have no effect on Proposal No. 1 Election of Directors, and abstentions will have the same effect as a vote against : Proposal No. 2 Ratification of Auditors and Proposal No. 3 Advisory Vote to Approve our Executive Compensation Program.

*Broker Non-Votes:* As a result of a change in rules related to discretionary voting and broker non-votes, banks, brokers, and other such record holders are no longer permitted to vote the uninstructed shares of their customers on a discretionary basis in the election of directors or on executive compensation program matters. Because broker non-votes are not considered under Delaware law to be entitled to vote at the Annual Meeting, they will have no effect on the outcome of the vote on: Proposal No. 1 the election of directors and Proposal No. 3 Advisory Vote to Approve our Executive Compensation Program. As a result, if you hold your shares in street name and you do not instruct your bank, broker, or other such holder how to vote your shares in the election of directors or the advisory vote related to the approval of our executive compensation program, no votes will be cast on your behalf on these proposals. **Therefore, it is critical that you indicate your vote on these proposals if you want your vote to be counted.** The proposal to ratify the selection of Grant Thornton LLP as our independent registered public accounting firm for the fiscal year ending December 29, 2012 should be considered a routine matter. Therefore, your broker will be able to vote on this proposal even if it does not receive instructions from you, so long as it holds your shares in its name.

**What happens if an incumbent director nominee does not receive a majority of the votes cast for his reelection?**

Our Bylaws require each incumbent nominee to promptly tender his resignation to the Board. Our Nominating and Corporate Governance Committee will then make a recommendation to the full Board of Directors as to whether to accept or reject the tendered resignation, or whether other action should be taken. Our Board of Directors will then decide whether to accept or reject the resignation, taking into account the Nominating and Corporate Governance Committee's recommendation. The determination of our Board of Directors and the rationale behind the decision will be publicly disclosed (by a press release, a filing with the Securities and Exchange Commission or other broadly disseminated means of communication) within 90 days from the date of the certification of the election results of our Annual Meeting. If the incumbent director's resignation is not accepted by our Board of Directors, the director will continue to serve until his successor is duly elected, or his earlier resignation or removal. If a director's resignation is accepted by our Board of Directors, then our Board of Directors may fill any resulting vacancy or decrease the size of the Board of Directors.

**What is the quorum requirement?**

A quorum of stockholders is necessary to hold a valid meeting. A quorum will be present if at least a majority of our outstanding shares of common stock are represented by votes at the Annual Meeting or by proxy. At the close of business on April 16, 2012, the record date for the Annual Meeting, there were 57,124,116 shares of common stock outstanding. Thus, a total of 57,124,116 shares are entitled to vote at the Annual Meeting and holders of common stock representing at least 28,562,059 votes must be represented at the Annual Meeting or by proxy to have a quorum.

Your shares will be counted towards the quorum only if you submit a valid proxy (or if one is submitted on your behalf by your broker, bank or other agent) or if you vote in person at the Annual Meeting. Abstentions will be counted towards the quorum requirement. Broker non-votes will be counted towards the quorum requirement. If there is no quorum, the chairman of the meeting or a majority of the shares present at the Annual Meeting may adjourn the Annual Meeting to another date.

**Who will count the votes?**

The votes will be counted, tabulated and certified by Computershare, Inc., Masimo's transfer agent and registrar for the company's common stock.

**I also have received a copy of Masimo Corporation's Annual Report on Form 10-K. Is that a part of the proxy materials?**

Our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, as filed with the Securities and Exchange Commission (the SEC) on February 17, 2012, accompanies this Proxy Statement. This document constitutes our Annual Report to Stockholders, and is being made available to all stockholders entitled to receive notice of and to vote at the Annual Meeting. Except as otherwise stated, the Annual Report on Form 10-K is not incorporated into this Proxy Statement and should not be considered proxy solicitation material.

**How can I find out the results of the voting at the Annual Meeting?**

Voting results are expected to be announced at the Annual Meeting and will also be disclosed in a Current Report on Form 8-K (the Form 8-K) that we will file with the SEC within four business days of the date of the Annual Meeting. In the event the results disclosed in our Form 8-K are preliminary, we will subsequently amend the Form 8-K to report the final voting results within four business days of the date that such results are known.

**When are stockholder proposals due for next year's annual meeting of stockholders?**

Stockholders may submit proposals on matters appropriate for stockholder action at the next annual meeting of the Company's stockholders consistent with Rule 14a-8 promulgated under the Securities Exchange Act of 1934, as amended (the Exchange Act). To be considered for inclusion in proxy materials for our 2013 Annual Meeting of Stockholders, a stockholder proposal must be submitted in writing no later than December 28, 2012 to our Corporate Secretary at 40 Parker, Irvine, California 92618. If you wish to submit a proposal that is not to be included in the proxy materials for our 2013 Annual Meeting of Stockholders, your proposal generally must be submitted in writing to the same address no later than March 13, 2013, but no earlier than February 11, 2013. Please review our bylaws, which contain additional requirements regarding advance notice of stockholder proposals. You may view our bylaws by visiting the SEC's Internet website at [www.sec.gov](http://www.sec.gov).

**PROPOSAL NO. 1**

**ELECTION OF DIRECTORS**

**Overview**

Masimo's Board of Directors presently has six members and is divided into three classes, designated Class I, Class II and Class III. Each class consists of two directors and each class has a three-year term. Vacancies on the Board may be filled only by persons elected by a majority of the remaining directors in office (even though the remaining directors may constitute less than a quorum). A director elected by our Board of Directors to fill a vacancy in a Class, including a vacancy created by an increase in the number of directors, shall serve for the remainder of the full term of that Class and until the director's successor is elected and qualified or until the director's earlier death, resignation or removal.

The term of office of the two Class II directors expires in 2012. Each of the nominees listed below is currently a director of Masimo. If elected at the Annual Meeting, each of these nominees would serve until the 2015 annual meeting of stockholders and until his successor is elected and qualified or, if sooner, until the director's death, resignation or removal. It is Masimo's policy to invite directors and nominees for director to attend the Annual Meeting either in person, by telephone or by webcast.

During fiscal year 2011, our Board of Directors amended our Bylaws to provide for a majority voting standard for uncontested elections of directors. This standard states that in uncontested director elections, a director nominee will be elected only if the number of votes cast For the nominee exceeds the number of votes cast Against the nominee. Under our Bylaws, in the event an incumbent nominee does not receive a majority of the votes cast for the incumbent director's re-election, the incumbent director is required to promptly tender his resignation to the Board. Our Nominating and Corporate Governance Committee will then make a recommendation to the full Board of Directors as to whether to accept or reject the tendered resignation, or whether other action should be taken. Our Board of Directors will then decide whether to accept or reject the resignation, taking into account the Nominating and Corporate Governance Committee's recommendation. The determination of our Board of Directors and the rationale behind the decision will be publicly disclosed (by a press release, a filing with the Securities and Exchange Commission or other broadly disseminated means of communication) within 90 days from the date of the certification of the election results of our Annual Meeting. If the incumbent director's resignation is not accepted by our Board of Directors, the director will continue to serve until his successor is duly elected, or his earlier resignation or removal. If a director's resignation is accepted by our Board of Directors, then our Board of Directors may fill any resulting vacancy or decrease the size of the Board of Directors.

Each nominee has agreed to serve as a director if elected. We have no reason to believe that any nominee will be unable to serve.

There are no family relationships between or among any of our officers or directors.

**Nominees**

The following sets forth the names and ages, as of March 15, 2012, of the nominees for director and each director whose term will continue after the Annual Meeting, and certain other information about them.

***Nominees for Election for a Three-year Term Expiring at the 2015 Annual Meeting of Stockholders***

**Edward L. Cahill**, age 59, has served as a member of our Board since January 1999. Mr. Cahill has served as Managing Partner of HLM Venture Partners, a venture capital firm that invests primarily in emerging companies focused on health care information technology, health care services and medical technology, since May 2000. From June 1995 to May 2000, Mr. Cahill served as a founding partner of Cahill, Warnock & Company (now Camden Partners), a Baltimore venture capital firm. Previously, Mr. Cahill was a Managing



Director of Alex, Brown & Sons, an investment services brokerage, where he headed the firm's health care group from January 1986 through March 1995. Mr. Cahill is also a director of several private health care companies and serves as a trustee of Johns Hopkins Medicine, Johns Hopkins Health System and Mercy Health Services. Mr. Cahill holds an A.B. in American Civilization from Williams College and a Master of Public and Private Management degree from Yale University. Our Nominating and Corporate Governance Committee believes Mr. Cahill's diverse and extensive board of directors and management experience, which has included public and private companies in the life sciences industry, provides him with key skills in working with directors, understanding board process and functions and working with financial statements. He brings to our Board the perspective of an experienced long-term investor in numerous biotechnology companies, as well as a strong financial management background, all of which qualify him for our Audit Committee and our Nominating and Corporate Governance Committee. In addition, Mr. Cahill has extensive experience with mergers and acquisitions.

**Robert Coleman, Ph.D.**, age 66, has served as a member of our Board since February 1997. Since October 1997, Dr. Coleman has served as Chairman of WaveSense, a developer of analytical nanotechnologies for use in cellular and molecular assay markets. In December 2010, Dr. Coleman became a board member at Therix Medical Development, Ltd., an early stage technology development and investment company focused on medical devices and diagnostics. He also served as a board member of SensAble Technologies, a developer of 3D touch-enabled (force feedback) solutions and technology, from April 1996 to November 2010 and as a board member of IntelliDX Inc., a developer of automated bedside blood analyzers, from August 2008 to January 2010. Dr. Coleman was a member of the board of directors of VivoMedical Inc., an early-stage medical device company that develops non-invasive glucose monitors, from October 2006 to February 2009. Dr. Coleman was President and CEO of MediSense, Inc., a manufacturer of blood glucose self-testing devices, from 1991 to May 1996, and President of MediSense, Inc., an Abbott Laboratories Company, from June 1996 to December 1996. He co-founded Nova Biomedical Corporation, a manufacturer of clinical laboratory equipment, and served as its President and CEO from April 1976 to August 1991. Dr. Coleman holds a B.S. in Chemistry from Morehead State University and a Ph.D. in Analytical Chemistry from the University of Tennessee. Our Nominating and Corporate Governance Committee believes Dr. Coleman's diverse and far-ranging executive and operational experience as a chief executive officer of multiple companies, including MediSense and Nova Biomedical, has provided him with a deep understanding of overseeing compensation practices and finance matters, and qualifies him to serve as a member of our Audit Committee and Compliance Committee and as the Chairperson of our Compensation Committee. In addition, Dr. Coleman's analytical skills and broad experience with life sciences companies allows him to assist our Board in evaluating and refining our business strategies and commercial objectives.

#### **THE BOARD OF DIRECTORS RECOMMENDS**

#### **A VOTE FOR THE ELECTION OF EACH NOMINEE NAMED ABOVE.**

#### ***Directors Continuing in Office Until the 2013 Annual Meeting of Stockholders***

**Joe Kiani**, age 47, is the founder of Masimo and has served as Chief Executive Officer and Chairman of the Board since our inception in 1989. He is an inventor on more than 50 patents related to signal processing, sensors and patient monitoring, including patents for the invention of measure-through motion and low-perfusion pulse oximetry. Mr. Kiani is currently on the Board of Directors of Saba Software, Inc., a publicly-traded software company focused on human capital development and management solutions. Mr. Kiani holds a B.S.E.E. and an M.S.E.E. from San Diego State University. As the founder of Masimo, and as the Company's Chairman and CEO since its formation in 1989, Mr. Kiani has the deepest understanding of Masimo, our history, our culture and our technology. He has broad experience in a wide range of functional areas, including strategic planning, strategic investments, engineering and development, and legal and governmental affairs. Mr. Kiani is critical to the Company's continued development and growth. He also brings to the Board his experience in serving as the Chairman of a non-profit organization and his membership on the board of directors of another public company.

**Jack Lasersohn**, age 59, has served as a member of our Board since January 1995. Mr. Lasersohn has been a general partner, or a principal of the general partner, of The Vertical Group, L.P., a private venture capital firm that is focused on the fields of medical technology and biotechnology. He has over 27 years of experience in health care venture capital investments. Prior to joining The Vertical Group's predecessor, F. Eberstadt, in 1981, Mr. Lasersohn was a corporate attorney with Cravath, Swaine & Moore LLP. From June 2007 to September 2009, he served as a director of ALUS Liquidation Corp., formerly known as Alsius Corporation, a medical device company that was publicly-traded until May 2009. In addition, Mr. Lasersohn served as a director of Metabolix Inc., a publicly-traded biotechnology company, from December 1999 to May 2008. He also serves on the boards of a number of private medical device and biotechnology companies. Mr. Lasersohn is the past Chairman of the Medical Industry Group of the National Venture Capital Association ( NVCA ) and currently serves on the Board of Directors of the NVCA. Mr. Lasersohn holds a B.S. in Physics from Tufts University, an M.A. from The Fletcher School of Law and Diplomacy, and a J.D. from Yale Law School. The totality of his professional experience, which has provided him with extensive expertise in medical device, biotechnology and other life sciences companies, has provided Mr. Lasersohn with the background and experience of board processes, function, compensation practices and oversight of management which is valuable to the Board, the Compensation Committee, the Compliance Committee and in his role as Chairperson of the Nominating and Corporate Governance Committee and the Compliance Committee. Mr. Lasersohn also brings to the Board his experience in serving on the board of directors and key committees of other public companies throughout his career, including a number of life sciences companies, which is important during Board discussions regarding our strategy and business operations.

***Directors Continuing in Office Until the 2014 Annual Meeting of Stockholders***

**Steven J. Barker, M.D., Ph.D.**, age 67, has served as a member of our Board since October 2005. Dr. Barker has served as the Professor and Head of Anesthesiology, University of Arizona College of Medicine since October 1995. From August 1990 to October 1995, Dr. Barker served as Chairman of Anesthesiology at the University of California, Irvine. He also holds a joint appointment as Professor of Mechanical and Aerospace Engineering. Dr. Barker is an oral examiner for the American Board of Anesthesiology, and is the Section Editor for Technology, Computing, and Simulation in the journal of Anesthesia and Analgesia. He also holds a B.S. in Physics and an M.S. and a Ph.D. in Mechanical Engineering from the California Institute of Technology and an M.D. from the University of Miami. Our Nominating and Corporate Governance Committee believes Dr. Barker's academic and medical background, as well as his in-depth knowledge of the healthcare industry and hospital operations, academic administration and managed care industry, provide him with a critical perspective regarding Masimo's products, technologies and prospects. His medical background, including his expertise in anesthesiology, are particularly relevant to Masimo when the Company evaluates its products and technologies. In addition, Dr. Barker is able to provide us with the unique perspective of a physician.

**Sanford Fitch**, age 71, has served as a member of our Board since November 2006. Mr. Fitch has served as a director and Audit Committee Chairman of Iridex Corp., a public company that designs, develops, manufactures and sells medical laser systems since 2004. Mr. Fitch served as a director and Audit Committee Chairman of FoxHollow Technologies, Inc., a public company that designed, developed, manufactured and sold medical devices, from June 2004 until October 2007. He also served as a director and Audit Committee Chairman of Conceptus, Inc., a public medical device company, from December 1994 until April 2004. Mr. Fitch was Chief Financial Officer and Senior Vice President of Operations of Conceptus, Inc. from December 1994 through October 1998. Mr. Fitch also served as Chief Financial Officer of several start-up technology companies from 1998 until 2002. From December 1990 to January 1994, Mr. Fitch served as Chief Financial Officer of SanDisk Corp., a manufacturer of flash memory devices. From 1983 through 1989, Mr. Fitch was the Chief Financial Officer of Komag Inc., a manufacturer of rigid thin film media for the disk drive industry. Mr. Fitch holds a B.S. in Chemistry and an M.B.A. from Stanford University. Our Nominating and Corporate Governance Committee finds Mr. Fitch's financial background to be extremely helpful to the Board and suited to his role as Chairperson of our Audit Committee. Mr. Fitch brings to us previous experience as a Chief Financial Officer for multiple companies over his long career, and as audit committee chairperson of a public company, which

uniquely qualifies him to serve as our Audit Committee Chairperson. In addition to his leadership and management skills, Mr. Fitch has considerable financial, auditing, risk management and corporate governance experience and he is an audit committee financial expert under the SEC's rules, all of which enable him to make valuable contributions to the Board and the Audit Committee.

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**INFORMATION REGARDING THE BOARD OF DIRECTORS AND CORPORATE GOVERNANCE**

**General**

This section describes key corporate governance guidelines and practices that we have adopted. Complete copies of our Corporate Governance Guidelines, the charters of the committees of our Board of Directors and our Code of Business Conduct and Ethics described below may be viewed on our Internet website at <http://ir.masimo.com> under Corporate Governance. Alternately, you can request a copy of any of these documents free of charge by writing to our Corporate Secretary, c/o Masimo Corporation, 40 Parker, Irvine, California 92618.

**Corporate Governance Guidelines**

Our Board of Directors has adopted corporate governance guidelines to assist the Board in the exercise of its duties and responsibilities and to serve the best interests of Masimo and our stockholders. These guidelines, which provide a framework for the conduct of the Board's business, provide that:

except with respect to matters reserved to our stockholders, our Board of Directors, which selects our senior management team, is our ultimate decision-making body;

the primary responsibilities of our Board are oversight, counseling and direction to management of Masimo for the benefit of Masimo and our stockholders;

it is our policy that except in unusual circumstances, the positions of the Chairman of our Board and our Chief Executive Officer be held by the same person;

a majority of the members of our Board shall be independent directors;

ordinarily, directors should not serve on more than four boards of publicly-traded companies, including our Board;

our Board and our Board committees have full and free access to management and, as necessary and appropriate, independent advisors;

the independent directors meet regularly in executive session;

on an annual basis, our Board and each of its committees will conduct a self-evaluation to determine whether they are functioning effectively; and

members of our Board shall regularly review developments in the areas of corporate governance and board service, hold periodic meetings with key members of our management and, as deemed appropriate, make visits to our key facilities.

**Independence of the Board of Directors**

Our Board has the responsibility for establishing corporate policies and for the overall performance of the Company, although it is not involved in day-to-day operations. As required under the marketplace rules of the Nasdaq Stock Market, LLC (Nasdaq), a majority of the members of a listed company's board of directors must qualify as independent, as affirmatively determined by our Board. Our Board consults with our counsel to ensure that the Board's determinations are consistent with all relevant securities and other laws and regulations regarding the definition of independent, including those set forth in applicable Nasdaq rules, as in effect from time to time. Consistent with these considerations, after

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review of all relevant transactions or relationships between each director, or any of his family members, and Masimo, our senior management and our independent auditors, our Board has determined that all of our directors other than Mr. Kiani are independent, as defined in Nasdaq Listing Rule 5605(a)(2).

### **Board Leadership Structure**

Our Board believes that our Chief Executive Officer is best situated to serve as Chairman because he is the director that is most familiar with our business and industry, possesses detailed and in-depth knowledge of the issues, opportunities and challenges facing us and is therefore best positioned to develop agendas that ensure that the Board's time and attention are focused on the most critical matters. Our independent directors bring experience, oversight and expertise from outside the company and industry, while the Chief Executive Officer brings company-specific experience and expertise. The Board believes that the combined role of Chairman and Chief Executive Officer facilitates information flow between management and the Board, which is essential to effective governance.

### **Board's Role in Risk Oversight**

Our Board has an active role, as a whole and also at the committee level, in overseeing management of our risks. The Board regularly reviews information regarding our credit, liquidity and operations, as well as the risks associated with each. Our Compensation Committee is responsible for overseeing the management of risks relating to our executive compensation plans and arrangements. Our Audit Committee oversees management of financial risks and our Compliance Committee oversees management of risks associated with environmental, health, safety and other non-financial concerns. Our Nominating and Corporate Governance Committee manages risks associated with the independence of the Board of Directors and potential conflicts of interest. While each committee is responsible for evaluating certain risks and overseeing the management of such risks, our entire Board of Directors is informed about such risks by the committees.

### **Information Regarding the Board of Directors**

We are committed to maintaining the highest standards of business conduct and ethics. Our Board has adopted Corporate Governance Guidelines to assure that our Board will have the necessary authority and practices in place to review and evaluate our business operations as needed and to make decisions that are independent of our management. The guidelines are also intended to align the interests of directors and management with those of our stockholders. The Corporate Governance Guidelines set forth the practices our Board will follow with respect to board composition and selection, board meetings and involvement of senior management, Chief Executive Officer performance evaluation and succession planning and board committees and compensation. Our Board adopted the Corporate Governance Guidelines to, among other things, reflect changes to the Nasdaq listing standards and SEC rules adopted to implement provisions of the Sarbanes-Oxley Act of 2002. Our Corporate Governance Guidelines may be viewed on our Internet website at <http://ir.masimo.com> under Corporate Governance.

### **Meetings**

Our Board meets on a regular basis throughout the year to review significant developments affecting the Company and to act upon matters requiring its approval. Our Board also holds special meetings as required from time to time when important matters arise requiring Board action between scheduled meetings. During 2011, our Board of Directors met six times and did not act by unanimous written consent. None of our directors attended fewer than 75% of the total number of meetings of the Board of Directors held during 2011.

### **Executive Sessions**

As required under applicable Nasdaq listing standards, our independent directors periodically meet in executive session at which only they are present.

### **Policy Regarding Board Member Attendance at Annual Meetings**

It is the policy of our Board to invite directors and nominees for director to attend annual meetings of our stockholders. We held one annual meeting of stockholders in 2011. Mr. Kiani was the only member of our Board who attended the meeting.

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**Information Regarding Board Committees**

Our Board has established standing Audit, Compensation, Nominating and Corporate Governance and Compliance Committees to devote attention to specific subjects and to assist it in the discharge of its responsibilities. All four committees operate under a written charter adopted by our Board of Directors, each of which is available on our Internet website at <http://ir.masimo.com> under Corporate Governance. The following table provides membership and meeting information for fiscal year 2011 for the Audit Committee, Compensation Committee and Nominating and Corporate Governance Committee. Each director attended at least 75% of the meetings of the committees of Board on which he served, held during the period for which he was a committee member.

Name	Audit	Compensation	Nominating and Corporate Governance	Compliance
<b>Employee Director:</b>				
Joe Kiani				
<b>Non-Employee Directors:</b>				
Steven J. Barker, M.D., Ph.D.		X	X	X
Edward L. Cahill	X		X	
Robert Coleman, Ph.D.	X	X <sup>(1)</sup>		X
Sanford Fitch	X <sup>(1)</sup>			
Jack Lasersohn		X	X <sup>(1)</sup>	X <sup>(1)</sup>
Total meetings in fiscal year 2011	4	3	0	2
Total actions by written consent in fiscal year 2011	0	2	0	0

<sup>(1)</sup> Committee Chairperson.

Below is a description of each committee of our Board of Directors. Each of the committees has authority to engage legal counsel or other experts or consultants, as it deems appropriate to carry out its responsibilities. The Board of Directors has determined that each member of each committee meets the applicable rules and regulations regarding independence and that each member is free of any relationship that would interfere with his individual exercise of independent judgment with regard to Masimo.

**Audit Committee**

We have a separately-designated standing Audit Committee established in accordance with Section 3(a)(58)(A) of the Exchange Act. Our Audit Committee is comprised of Mr. Cahill, Dr. Coleman and Mr. Fitch. Mr. Fitch serves as the Chairperson of the Audit Committee. The functions of this Committee include, among others:

evaluating our independent registered public accountant's qualifications, independence and performance as our independent auditors;

determining the engagement of our independent auditors;

approving the retention of our independent auditors to perform any proposed audit and permissible non-audit services;

monitoring the rotation of partners of our independent auditors on our engagement terms as required by law;

reviewing our financial statements;

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reviewing our critical accounting policies and estimates;

discussing with our management and our independent auditors the results of the annual audit and the review of our quarterly financial statements; and



reviewing and evaluating, at least annually, the performance of the Audit Committee and its members, including compliance of the Audit Committee with its charter.

Typically, the Audit Committee meets at least quarterly and with greater frequency if necessary. Our Board has adopted a written charter of the Audit Committee that is available to stockholders on our Internet website at <http://ir.masimo.com> under Corporate Governance.

Under the applicable rules and regulations of Nasdaq, each member of a company's audit committee must be considered independent in accordance with Nasdaq Listing Rule 5605(c)(2)(A)(i) and (ii) and Rule 10A-3(b)(1) under the Exchange Act. Our Board reviews the Nasdaq Listing Rule standards and Exchange Act definitions of independence for Audit Committee members on an annual basis and has determined that all members of the Company's Audit Committee are independent (as independence is currently defined in Nasdaq Listing Rule 5605(c)(2)(A)(i) and (ii)). Our Board has determined that all members of our Audit Committee also meet the requirements for financial literacy under the Nasdaq Listing Rules.

Our Board has determined that Mr. Fitch, the Chairperson of our Audit Committee, is an audit committee financial expert, as defined under applicable SEC rules, and that Mr. Fitch meets the background and financial sophistication requirements under Nasdaq Listing Rule 5605(c)(2)(A). In making this determination, the Board made a qualitative assessment of Mr. Fitch's level of knowledge and experience based on a number of factors, including his formal education and experience. Both our independent registered public accounting firm and internal financial personnel regularly meet privately with our Audit Committee and have unrestricted access to this committee.

### AUDIT COMMITTEE REPORT

Our Audit Committee is composed of independent directors, as determined in accordance with Nasdaq Listing Rule 5605(a)(2) and Rule 10A-3 of the Exchange Act. The Audit Committee operates pursuant to a written charter adopted by the Board, a copy of which may be viewed on our Internet website at <http://ir.masimo.com> under Corporate Governance.

As described more fully in its charter, the purpose of the Audit Committee is to assist our Board with its oversight responsibilities regarding the integrity of our financial statements, assessing the independent registered public accounting firm's qualifications and independence and the performance of the persons performing internal audit duties for us and the independent registered public accounting firm. Management is responsible for the preparation, presentation and integrity of our financial statements as well as our financial reporting process, accounting policies, internal audit function, internal accounting controls and disclosure controls and procedures. The independent registered public accounting firm is responsible for performing an independent audit of our consolidated financial statements in accordance with generally-accepted auditing standards and to issue a report thereon. The Audit Committee's responsibility is to monitor and oversee these processes. The following is the Audit Committee's report submitted to the Board for 2011.

The Audit Committee has:

reviewed and discussed our audited financial statements with management and Grant Thornton LLP, the independent registered public accounting firm;

discussed with Grant Thornton LLP the matters required to be discussed by Statement on Auditing Standards No. 61, as amended (AICPA, Professional Standards, Vol. 1, AU Section 380), as adopted by the Public Company Accounting Oversight Board in Rule 3200T; and

received from Grant Thornton LLP the written disclosures and the letter regarding their communications with the Audit Committee concerning independence as required by the Public Company Accounting Oversight Board and discussed the auditors' independence with them.

In addition, the Audit Committee has met separately with management and with Grant Thornton LLP.

Based on the review and discussions referred to above, the Audit Committee recommended to the Board that the audited financial statements be included in our Annual Report on Form 10-K for the year ended December 31, 2011 for filing with the Securities and Exchange Commission. The Audit Committee also has selected and engaged Grant Thornton LLP as Masimo's independent auditors for the fiscal year ending December 29, 2012, and is seeking ratification of the selection by Masimo's stockholders.

#### **Audit Committee**

Mr. Edward L. Cahill

Dr. Robert Coleman

Mr. Sanford Fitch

*This foregoing audit committee report is not soliciting material, is not deemed filed with the SEC, and shall not be deemed incorporated by reference by any general statement incorporating by reference this Proxy Statement into any filing of ours under the Securities Act of 1933, as amended, or under the Exchange Act, except to the extent we specifically incorporate this report by reference.*

## Compensation Committee

Our Compensation Committee is comprised of Drs. Barker and Coleman and Mr. Lasersohn. Dr. Coleman serves as the Chairperson of our Compensation Committee. The functions of this committee include, among others:

determining the compensation and other terms of employment of our executive officers and reviewing and approving corporate performance goals and objectives relevant to such compensation;

evaluating and recommending the type and amount of compensation to be paid or awarded to our Board members;

evaluating and recommending to our Board the equity incentive plans, compensation plans and similar programs advisable for us, as well as modification or termination of existing plans and programs;

administering our equity incentive plans;

establishing policies with respect to equity compensation arrangements;

reviewing and approving the terms of any employment agreements, severance arrangements, change in control protections and any other compensatory arrangements for our executive officers; and

reviewing and evaluating, at least annually, the performance of the Compensation Committee and its members, including compliance of the Compensation Committee with its charter.

Our Board has adopted a written charter of the Compensation Committee that is available to stockholders on our Internet website at <http://ir.masimo.com> under Corporate Governance. Our Board has determined that all members of our Compensation Committee are independent (as independence is currently defined in Nasdaq Listing Rule 5605(a)(2)). The Compensation Committee meets from time to time during the year. The agenda for each meeting is usually developed by the Chairperson of the Compensation Committee, in consultation with our Chief Executive Officer and other representatives of senior management and human resources as necessary. The Chief Executive Officer may not participate in or be present during any deliberations or determinations of the Compensation Committee regarding his compensation. The charter of the Compensation Committee grants the Compensation Committee full access to all of our books, records, facilities and personnel, as well as authority to obtain, at our expense, advice and assistance from internal and external legal, accounting or other advisors and consultants and other external resources that the Compensation Committee considers necessary or appropriate in the performance of its duties. In particular, the Compensation Committee has the sole authority to retain compensation consultants to assist in its evaluation of executive and director compensation, including the authority to approve the consultant's reasonable fees and other retention terms.

To assist management and the Compensation Committee in assessing and determining competitive compensation packages, we engaged Compensation Strategies, Inc., an independent compensation consultant, in May 2007 and January 2010. In May 2007, the Compensation Committee requested that Compensation Strategies, Inc. match our compensation practices for our Chief Executive Officer and our Chief Financial Officer to those described in public sources for a group of peer companies in the medical device/diagnostic monitoring equipment industry, and that Compensation Strategies, Inc. use public and private survey data for all other executive officer positions and as a supplement to the data filed publicly by this peer group of companies. In January 2010, the Compensation Committee requested that Compensation Strategies, Inc. conduct a competitive review of executive compensation for our executive officers. Compensation Strategies, Inc. is independent from Masimo, has not provided any services to Masimo other than preparing the two reports referenced above, and receives compensation from Masimo only for services provided to the Compensation Committee.

The Compensation Committee meets outside the presence of all of our executive officers, including the named executive officers, in order to consider appropriate compensation for our Chief Executive Officer. For all other named executive officers, the Compensation Committee meets outside the presence of all executive officers



except our Chief Executive Officer. The annual performance reviews of our executive officers are considered by the Compensation Committee when making decisions on setting base salary, targets for and payments under our bonus plan and grants of equity incentive awards. When making decisions on executive officers, the Compensation Committee considers the importance of the position to us, the past salary history of the executive officer and the contributions we expect the executive officer to make to the success of our business.

The specific determinations of the Compensation Committee with respect to executive compensation for fiscal year 2011 are described in greater detail in the Compensation Discussion and Analysis section of this Proxy Statement.

#### **Compensation Committee Interlocks and Insider Participation**

In 2011, our Compensation Committee consisted of Drs. Barker and Coleman and Mr. Lasersohn. No member of our Compensation Committee is currently or has been at any time one of our officers or employees, is or was a participant in a related party transaction under Item 404 of Regulation S-K promulgated by the SEC ( Regulation S-K ) in 2011, or has served as a member of the board of directors, board of trustees or compensation committee of any entity that has one or more officers serving as a member of our Board or our Compensation Committee. None of our executive officers serves or in the past has served as a member of the board of directors or compensation committee of any entity that has one or more of its executive officers serving on our Board of Directors or our Compensation Committee. Prior to establishing the Compensation Committee, our full Board made decisions relating to compensation of our executive officers.

#### **COMPENSATION COMMITTEE REPORT**

The Compensation Committee has reviewed and discussed the Compensation Discussion and Analysis required by Item 402(b) of Regulation S-K of the SEC's rules and regulations with management and, based on such review and discussions, the Compensation Committee recommended to the Board of Directors that the Compensation Discussion and Analysis be included in this Proxy Statement and incorporated into our Annual Report on Form 10-K for the fiscal year ended December 31, 2011.

#### **Compensation Committee**

Dr. Steven J. Barker

Dr. Robert Coleman

Mr. Jack Lasersohn

*This foregoing compensation committee report is not soliciting material, is not deemed filed with the SEC, and shall not be deemed incorporated by reference by any general statement incorporating by reference this Proxy Statement into any filing of ours under the Securities Act of 1933, as amended, or under the Exchange Act, except to the extent we specifically incorporate this report by reference.*

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

Our Nominating and Corporate Governance Committee is comprised of Dr. Barker and Messrs. Cahill and Lasersohn. Mr. Lasersohn serves as the Chairperson of our Nominating and Corporate Governance Committee. The functions of this committee include, among others:

interviewing, evaluating and recommending individuals for membership on our Board;

evaluating nominations by stockholders of candidates for election to our Board;

evaluating director performance on the Board and applicable committees of the Board and determining whether continued service on our Board is appropriate;

considering and assessing the independence of members of our Board;

developing and reviewing a set of corporate governance policies and principles, including a code of business conduct and ethics, and recommending changes to such policies and principles;

considering questions of possible conflicts of interest of directors as such questions arise; and

evaluating, at least annually, the performance of the Nominating and Corporate Governance Committee.

Our Board has adopted a written charter of the Nominating and Corporate Governance Committee that is available to stockholders on our Internet website at <http://ir.masimo.com> under Corporate Governance. Our Board has determined that all members of our Nominating and Corporate Governance Committee are independent (as independence is currently defined in Nasdaq Listing Rule 5605(a)(2)). The Nominating and Corporate Governance Committee meets from time to time as it deems appropriate or necessary.

### **Consideration of Director Nominees**

#### ***Director Qualifications***

There are no specific minimum qualifications that the Board requires to be met by a director nominee recommended for a position on our Board, nor are there any specific qualities or skills that are necessary for one or more members of our Board to possess, other than as are necessary to meet the requirements of the rules and regulations applicable to us. The Nominating and Corporate Governance Committee considers a potential director candidate's experience, areas of expertise and other factors relative to the overall composition of our Board and its committees, including the following characteristics:

the highest ethical standards and integrity and a strong personal reputation;

a background that provides experience and achievement in business, finance, biotechnology or other activities relevant to our business and activities;

a willingness to act on and be accountable for Board and, as applicable, committee decisions;

an ability to provide wise, informed and thoughtful counsel to management on a range of issues affecting us and our stockholders;

an ability to work effectively and collegially with other individuals;

loyalty and commitment to driving our success and increasing long-term value for our stockholders;

sufficient time to devote to Board and, as applicable, committee membership and matters; and

the independence requirements imposed by the SEC and Nasdaq.

The Nominating and Corporate Governance Committee retains the right to modify these criteria from time to time.

#### ***Security Holder Nominations***

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The Nominating and Corporate Governance Committee will consider director candidates recommended by our stockholders of record. The Nominating and Corporate Governance Committee does not intend to alter the manner in which it evaluates candidates, including the criteria set forth above, based on whether a candidate was recommended by a stockholder of record or not. Stockholders of record who wish to recommend individuals for consideration by the Nominating and Corporate Governance Committee to become nominees for election to the Board at an annual meeting of stockholders must do so by delivering a written recommendation to the Nominating and Corporate Governance Committee, c/o Masimo Corporation, 40 Parker, Irvine, California 92618, Attn: Corporate Secretary, no later than the close of business on the 45th day nor earlier than the 75th day

prior to the anniversary date of the initial mailing of our proxy statement for our preceding year's annual meeting of stockholders unless the meeting date is more than 30 days before or after the one-year anniversary of the preceding year's annual meeting of stockholders, in which case the written recommendation must be received by our Corporate Secretary no later than the close of business on the later of (i) the 90th day before the next annual meeting of stockholders or (ii) the 10th day following the day on which we first publicly announce the date of the next annual meeting of stockholders. Each written recommendation must set forth, among other information:

the name and address of the stockholder of record and any beneficial owner on whose behalf the nomination is being made;

the class, series and number of shares of Masimo, and any convertible securities of Masimo, that are beneficially owned by the stockholder of record and any beneficial owner on whose behalf the nomination is being made;

any proxy, contract, arrangement, understanding or relationship pursuant to which the stockholder of record and any beneficial owner on whose behalf the nomination is being made has the right to vote any of Masimo's voting securities;

any short interest in Masimo's securities held by the stockholder of record and any beneficial owner on whose behalf the nomination is being made;

the proposed director candidate's name, age, business address and residential address;

complete biographical information for the proposed director candidate, including the proposed director candidate's principal occupation or employment and business experience for at least the previous five years;

the class and number of shares of Masimo that are beneficially owned by the proposed director candidate as of the date of the written recommendation; and

any other information relating to the proposed director candidate that is required to be disclosed in solicitations for proxies for election of directors pursuant to Regulation 14A promulgated under the Exchange Act.

Director candidate nominations from stockholders must be provided in writing and must include the written consent of each proposed nominee to serve as director if so elected.

If a proposed director candidate is recommended by a security holder in accordance with the procedural requirements discussed above, the Corporate Secretary will provide the foregoing information to the Nominating and Corporate Governance Committee.

#### ***Evaluating Nominees for Director***

Our Nominating and Corporate Governance Committee considers director candidates who are suggested by members of the committee, other members of our Board, members of management, advisors and our security holders who submit recommendations in accordance with the requirements set forth above. The Nominating and Corporate Governance Committee may, in the future, also retain a third-party search firm to identify candidates on terms and conditions acceptable to the Nominating and Corporate Governance Committee, but to date it has not paid a fee to any third party to assist in the process of identifying or evaluating director candidates. The Nominating and Corporate Governance Committee evaluates all nominees for director under the same approach whether they are recommended by security holders or other sources.

The Nominating and Corporate Governance Committee reviews candidates for director nominees in the context of the current composition of our Board and committees, the operating requirements of the Company and the long-term interests of our stockholders. In conducting this assessment, the Nominating and Corporate Governance Committee considers the director nominee's qualifications, diversity, age, skills and such other





factors as it deems appropriate given the current needs of the Board, the committees and Masimo, to maintain a balance of knowledge, experience, diversity and capability. In the case of incumbent directors whose terms of office are set to expire, the Nominating and Corporate Governance Committee reviews such directors' overall service to the Board, the committees and Masimo during their term, including the number of meetings attended, level of participation, quality of performance and any other relationships and transactions that might impair such directors' independence. In the case of new director candidates, the Nominating and Corporate Governance Committee will also determine whether the nominee must be independent for Nasdaq purposes, which determination will be based upon applicable Nasdaq listing standards and applicable SEC rules and regulations. Although we do not have a formal diversity policy, when considering diversity in evaluating director nominees, the Nominating and Corporate Governance Committee focuses on whether the nominees can contribute varied perspectives, skills, experiences and expertise to the Board.

The Nominating and Corporate Governance Committee will evaluate the proposed director's candidacy, including proposed candidates recommended by security holders, and recommend whether the Board should nominate the proposed director candidate for election by our stockholders.

### **Compliance Committee**

Our Compliance Committee is comprised of Drs. Barker and Coleman and Mr. Lasersohn. Mr. Lasersohn serves as the Chairperson of our Compliance Committee. The functions of this committee include, among others:

overseeing our compliance efforts with respect to our legal, regulatory and ethical compliance programs, policies and procedures, including our Code of Business Conduct and Ethics;

overseeing our compliance efforts with respect to relevant laws and regulations;

overseeing the investigation of, and requesting the investigation of, any significant instances of noncompliance with laws or our compliance programs, policies or procedures, or potential compliance violations that are reported to the Compliance Committee (other than financial compliance violations, which are handled by the Audit Committee);

overseeing the review of complaints received from internal and external sources regarding non-financial matters; and

evaluating, at least annually, the performance of the Compliance Committee.

Our Board has adopted a written charter of the Compliance Committee that is available to stockholders on our Internet website at <http://ir.masimo.com> under Corporate Governance. Our Board has determined that all members of our Compliance Committee are independent (as independence is currently defined in Nasdaq Listing Rule 5605(a)(2)). The Compliance Committee meets from time to time as it deems appropriate or necessary.

### **Stockholder Communications with the Board of Directors**

Our Board has adopted a formal process by which security holders may communicate with the Board or any of its directors. Stockholders of Masimo wishing to communicate with our Board or an individual director may send a written communication to the Board or such director, c/o Masimo Corporation, 40 Parker, Irvine, California 92618, Attn: Corporate Secretary. Each communication must set forth:

the name and address of the Masimo security holder(s) on whose behalf the communication is sent; and

the number of Masimo shares that are owned beneficially by the security holder(s) as of the date of the communication.

Each communication will be reviewed by Masimo's Corporate Secretary to determine whether it is appropriate for presentation to the Board or the individual director. Examples of inappropriate communications include junk mail, spam, mass mailings, product complaints, product

inquiries, new product suggestions,

resumes, job inquiries, surveys, business solicitations and advertisements, as well as unduly hostile, threatening, illegal, unsuitable, frivolous, patently offensive or otherwise inappropriate material. These screening procedures have been approved by a majority of the independent members of our Board.

Communications determined by our Corporate Secretary to be appropriate for presentation to the Board or such director will be submitted to the Board or the individual director on a periodic basis. All communications directed to the Audit Committee in accordance with our Code of Business Conduct and Ethics or our Open Door Policy for Reporting Accounting, Audit and Compliance Concerns (the Open Door Policy ) that relate to questionable accounting or auditing matters involving the Company generally will be forwarded to a compliance officer designated by the Audit Committee to receive and review these communications and then promptly and directly forwarded by a compliance officer to the Audit Committee or the Board, as appropriate, in accordance with the terms of the Code of Business Conduct and Ethics and the Open Door Policy. All communications directed to the Compliance Committee in accordance with our Code of Business Conduct and Ethics or our Open Door Policy that relate to non-financial matters (including without limitation purported violations of our Code of Business Conduct and Ethics or other policies) will generally be forwarded to a compliance officer designated by the Compliance Committee to receive and review these communications and then promptly and directly forwarded by a compliance officer to the Compliance Committee or the Board, as appropriate, in accordance with the terms of the Code of Business Conduct and Ethics and the Open Door Policy.

### Code of Business Conduct and Ethics

We have adopted the Masimo Corporation Code of Business Conduct and Ethics that applies to all of our employees, executive officers and directors. The Code of Business Conduct and Ethics is available to stockholders on our Internet website at <http://ir.masimo.com> under Corporate Governance. If we make any substantive amendments to our Code of Business Conduct and Ethics or grant any waiver from a provision of the Code of Business Conduct and Ethics to any executive officer or director, we will promptly disclose the nature of the amendment or waiver on our Internet website at <http://ir.masimo.com> under Corporate Governance and/or in our public filings with the SEC.

### Hedging Prohibition

As part of our insider trading policy, our executives and directors are prohibited from engaging in short sales of our securities and from engaging in hedging transactions involving our securities.

### Information Regarding Executive Officers

Our executive officers and their respective positions are as follows:

Name	Age <sup>(1)</sup>	Position(s)
Joe Kiani	47	Chief Executive Officer & Chairman of the Board of Directors
Tony Allan	46	Chief Operating Officer
Jon Coleman	48	President, Worldwide Sales, Marketing and Clinical Research
Mark P. de Raad	52	Executive Vice President, Chief Financial Officer & Corporate Secretary
Rick Fishel	54	President, Worldwide OEM Business & Strategic Development
Yongsam Lee	47	Chief Information Officer and Executive Vice President, Regulatory Affairs
Anand Sampath	45	Executive Vice President, Engineering

<sup>(1)</sup> As of March 15, 2012.

**Tony Allan** has served as our Chief Operating Officer since May 2010. From August 1995 to May 2010, he held various positions, including Vice President of Global Business Units, Instrumentation and Medical Sector and Senior Business Unit Director with Jabil Circuit Inc, an electronics design, manufacturing and product solutions company. Mr. Allan holds a Post Graduate diploma in Quality Engineering from Paisley University and a H.N.D. Engineering from Glasgow College.

**Jon Coleman** has served as our President, Worldwide Sales, Marketing and Clinical Research since February 2011 and was our President, International from August 2008 to February 2011. From October 2007 to August 2008, Mr. Coleman was President and Chief Executive Officer of You Take Control, Inc, a healthcare information technology start-up company. He served as General Manager, Americas of Targus Group International, a supplier of mobile computing cases and accessories, from March 2006 to February 2007. From March 1994 to February 2006, he held progressive leadership positions with Pfizer, Inc, most recently Vice President and General Manager, Canada & Caribbean Region. Mr. Coleman holds a M.B.A. from Harvard Business School, and a B.A. in International Relations from Brigham Young University.

**Mark P. de Raad** has served as our Executive Vice President and Chief Financial Officer since June 2006 and as our Corporate Secretary since December 2009. From November 2002 through May 2006, Mr. de Raad served as Vice President, Chief Financial Officer and Secretary for Avamar Technologies, Inc., a start-up enterprise software development company. He served as Chief Financial Officer, Quantum Storage Solutions Group, a division of Quantum Corporation from June 2001 through November 2002. From September 1997 through June 2001, Mr. de Raad was Vice President, Finance and Chief Financial Officer for ATL Products, Inc., a manufacturer of automated tape libraries. Mr. de Raad is a Certified Public Accountant (inactive) and holds a B.S. in Accounting from the University of Santa Clara.

**Rick Fishel** has served as President, Worldwide OEM Business and Strategic Development since February 2011. Previously, Mr. Fishel was our President, Americas and Worldwide OEM Business, from February 2009 to February 2011, and was President Americas from June 2004 to February 2009. From January 2003 to June 2004, Mr. Fishel was Regional Vice President of Sales for the Information Solutions segment of the McKesson Corporation, a provider of supply, information and care management products and services. From January 2001 to January 2003, he served as National Vice President of Sales for the Consulting Services division of GE Medical Systems, Inc., a provider of medical technology and productivity solutions. Mr. Fishel holds a B.S. in Marketing from Arizona State University.

**Yongsam Lee** has served as our Chief Information Officer and Executive Vice President, Regulatory Affairs since November 2010. From March 1996 to October 2001 and from April 2002 to November 2010, Mr. Lee held various positions with us, including Chief Information Officer, Vice President, IT and Regulatory Affairs, and Executive Vice President, Operations. From October 2001 to April 2002, he served as Director of IT at SMC Networks, Inc., a provider of networking solutions. Mr. Lee holds a B.S. in Applied Physics from the University of California, Irvine.

**Anand Sampath** has served as our Executive Vice President, Engineering since March 2007. From April 2006 to March 2007, Mr. Sampath was our Director of Systems Engineering. From October 1995 to March 2006, he held various positions, including Program Manager, Engineering Manager and Distinguished Member of Technical Staff, at Motorola, Inc. He is an inventor on more than four patents relating to patient monitoring, wireless networks and communications. Mr. Sampath holds a B.S. in Engineering from Bangalore University.

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## COMPENSATION OF EXECUTIVE OFFICERS

### Compensation Discussion and Analysis

*The following compensation discussion and analysis contains statements regarding future individual and company performance targets and goals. These targets and goals are disclosed in the limited context of Masimo's compensation programs and should not be understood to be statements of management's expectations or estimates of results or other guidance. Masimo specifically cautions investors not to apply these statements to other contexts.*

#### Overview Compensation Objectives

The primary objectives of the Compensation Committee of our Board with respect to executive compensation are to attract, retain and motivate the best possible executive talent. The focus is to tie short- and long-term cash and equity incentives to the achievement of measurable corporate objectives and to align executives' incentives with stockholder value creation. To achieve these objectives, the Compensation Committee has adopted a compensation approach that ties a substantial portion of executives' overall compensation to our short- and long-term operational performance. In addition, we evaluate and reward our executive officers based on their willingness to take a leadership position in improving our internal structures and processes and their ability to identify and exploit opportunities to grow our business.

We must match market cash compensation levels and satisfy the day-to-day financial requirements of our candidates through competitive base salaries and cash bonuses. We also compete for key personnel on (i) the basis of our vision of future success, (ii) our culture and company values, (iii) the cohesiveness and productivity of our teams, and (iv) the excellence of our technical and management personnel. In all of these areas, we compete with other medical device and biotechnology companies, where there is significant competition for talented employees. We believe that we must provide competitive compensation packages to attract and retain executive officers and to help our executive management function as a stable team over the longer term. We believe that we must compete for executive and key technical talent in this highly-competitive market in Southern California. We also believe that for certain executive level positions, we compete against other successful public and private companies in Southern California for talent. Accordingly, our compensation philosophy has been to maintain an aggressive pay posture for total compensation, as well as components of total compensation. In addition, with the same competitive pay issues to consider, our Compensation Committee has developed incentive bonus and equity plans designed to align stockholder and employee interests.

We have adopted an approach to compensation comprised of a mix of short- and long-term components, cash and equity elements in the proportions we believe will provide the proper incentives, reward our senior management team and help us achieve the following goals:

align our executive officers' compensation with our business objectives and the interests of our stockholders;

foster a goal-oriented, highly-motivated management team whose participants have a clear understanding of business objectives and shared corporate values;

control costs in each facet of our business to maximize our efficiency; and

enable us to attract, retain and motivate a world-class leadership team.

The compensation of our executive officers is based in part on the terms of our employment agreement with our Chief Executive Officer and the offer letters we entered into with each of our other executive officers, which set forth the initial base salaries and initial option grants for our executive officers, as well as the terms of our cash bonus plans. See [Employment Agreement and Offer Letters](#) and [Cash Bonus Plans](#) below.

In 2011, we believe that our compensation offering for executive officer talent of base salary, bonus plan and equity grant provided a competitive compensation package to attract, retain and motivate world-class talent. The Compensation Committee generally undertakes the annual merit review process for purposes of determining executive officer salaries at the beginning of each fiscal year. For 2011, however, the Compensation Committee deferred the assessment of executive officer salaries until July 2011 in light of various business uncertainties. These uncertainties were sufficiently resolved such that the 2011 merit increase in executive officer salaries became effective in July 2011. The percentage salary increase for our executive officers in 2011 was the same percentage increase applied to all Masimo employees in 2011. Under our Executive Annual Cash Bonus Plan (the Executive Annual Plan), we identified two key financial targets that reinforced two other compensation plan goals; namely, the alignment of our executive officers' compensation with our business objectives and the interests of our stockholders as well as the fostering of a goal-oriented, highly-motivated management team whose participants have a clear understanding of business objectives and shared corporate values. For 2011, the individual factor under the Executive Annual Plan for our Chief Executive Officer was based on the Compensation Committee's evaluation of our Chief Executive Officer's performance in guiding Masimo through a continued difficult economic environment and in achieving a variety of internal goals related to product quality, customer satisfaction, product revenues, earnings per share, monitor shipments, single patient adhesive and disposable sensor shipments, revenues from new product categories including both noninvasive hemoglobin (SpHb<sup>®</sup>) and rainbow<sup>®</sup> Acoustic Monitoring, the expansion of monitoring devices on the general floor, our ability to create innovative products and protect our intellectual property, and other business goals. The individual performance factor for 2011 determined by our Chief Executive Officer for the other named executive officers focused on their own individual attainment of functionally specific goals and objectives set at the beginning of the year.

#### ***Role of Our Compensation Committee***

Our Compensation Committee approves, administers and interprets our executive compensation and benefit policies. Our Compensation Committee was appointed by our Board and consists entirely of directors who are outside directors for purposes of Section 162(m) of the Internal Revenue Code, as amended (the Code), and non-employee directors for purposes of Rule 16b-3 under the Exchange Act. Our Compensation Committee is comprised of Drs. Barker and Coleman and Mr. Lasersohn. Dr. Coleman is our Compensation Committee chairperson.

The Compensation Committee considers recommendations from Joe Kiani, our Chief Executive Officer, in determining executive compensation. While Mr. Kiani discusses his recommendations with the Compensation Committee, he does not participate in determining his own compensation. In making his recommendations, Mr. Kiani receives input from our Human Resources department and has access to various third-party compensation surveys and compensation data of publicly-traded companies we obtained from publicly-available SEC filings. With respect to the assessment of base salaries in July 2011, Mr. Kiani also had competitive compensation information contained in a third party report authorized by our Compensation Committee. The report prepared in June 2011 included market information based on a peer group of companies and constructed mean annual revenues of \$325 million and an average market capitalization of \$1.2 billion, which the Compensation Committee believed to be an appropriate benchmark in light of our size and expected growth at the time it authorized the report. None of our other executive officers participates in the Compensation Committee's discussions regarding executive compensation. The Compensation Committee does not delegate any of its functions to others in determining executive compensation.

Our Compensation Committee has taken the following steps to ensure that our approach to executive compensation and benefits is consistent with both our compensation philosophy and our corporate governance guidelines:

evaluated our compensation practices and assisted in developing and implementing the executive compensation philosophy;

developed recommendations with regard to executive compensation structures that were reviewed and approved by our Compensation Committee and Board;

established a practice of prospectively reviewing the performance and determining the compensation earned, paid or awarded to our Chief Executive Officer; and

established a policy to review on an annual basis the performance of our other executive officers with assistance from our Chief Executive Officer and determining what we believe to be appropriate total compensation.

***Compensation Committee Consideration of the Company's 2011 Say-on-Pay Vote***

At our 2011 Annual Meeting of Stockholders, we asked our stockholders to vote, on an advisory basis, on the compensation of our named executive officers as disclosed in our 2011 Proxy Statement. Our 2011 management say-on-pay proposal received the approval of approximately 69% of the votes cast at the 2011 Annual Meeting.

In response to the vote and at the direction of the Compensation Committee, we responded to the 2011 voting results with an outreach effort that extended primarily to our largest stockholders. In particular, during 2011 and early 2012, we engaged in discussions with a number of our institutional investors about our executive compensation program and other governance issues. This feedback was shared with our Compensation Committee.

In addition, we have taken the following principal actions, among others:

we determined to limit the year-over-year base salary increases of our executive officers to 3%, which is the same increase applied to our employees generally;

we adopted a stock ownership policy, which requires that our Chief Executive Officer hold shares of Masimo stock with a value equal to at least six times his base salary and each of our other executive officers hold shares of Masimo stock with a value equal to at least one time his base salary;

in light of the grant of stock options to our executive officers in October 2011, our Compensation Committee does not plan to make any stock option or other equity grants to our executive officers in 2012;

we adopted a policy governing gross-up provisions in agreements and arrangements with our executive officers, pursuant to which our Compensation Committee will not approve any employment or other agreement or arrangement with any of our executive officers that includes a tax gross-up provision or a similar term that would require payments by us to an executive officer be made in the full amount, free of any deductions or withholdings, and without exercising any right of set-off, in connection with a change of control, and furthermore will not approve an amendment to extend the term of any current employment or other agreement or arrangement between us and any executive officer if such agreement or arrangement includes a tax gross-up provision or a similar term (excluding Mr. Kiani's employment agreement);

we announced that because a majority of our stockholders had indicated a preference for annual advisory votes on executive compensation, we would follow that stockholder preference and conduct annual advisory votes; and

we have provided a more detailed analysis of our compensation strategy and policies in this proxy statement.

***Components of our Compensation Approach***

Our compensation approach is comprised of five components:



base salary;

annual and multi-year cash bonuses;

equity-based incentives;

other benefits; and

severance and termination protection.

We chose to build our executive compensation approach around these elements because we believe that together they have been and will continue to be effective in achieving our overall objectives. We utilize short-term compensation, including base salary and annual cash bonuses, to motivate and reward our key executives. The use and weight of each compensation element is based on a subjective determination by the Compensation Committee of the importance of each element in meeting our overall objectives. We believe that, in addition to base salaries and bonuses, stock option awards are the primary compensation-related motivator in attracting and retaining qualified employees.

*Base Salary.* Base salary is used to provide each named executive officer a set amount of money during the year with the expectation that he will perform his responsibilities to the best of his ability and in the best interests of Masimo. Base salaries will typically be used to recognize the experience, skills, knowledge and responsibilities required of each executive officer, as well as competitive market conditions. The base salaries of our named executive officers are typically reviewed every one to two years. Prior to 2009, executive salaries were typically adjusted annually, effective June 1st of each year. However, in 2009, based on then-current global economic conditions and a desire to better synchronize the year end management bonus assessment with the annual merit review process, the Compensation Committee determined to delay the annual salary review process from June 1, 2009 to January 1, 2010, at which time our executive officers received a slight increase in their base salaries. In 2011, the Compensation Committee, consistent with the Company's annual financial plan objectives and the uncertainty surrounding various business uncertainties, decided to defer its decision on whether to modify salaries for executive officers in 2011 until July 2011.

In 2008, for our executive officers, the Compensation Committee used market data provided by Compensation Strategies, Inc. and further considered the individual performance of our executive officers for the prior year to determine whether to modify the baseline 4% increase (upward or downward) for the executive officer, based on the following qualitative factors: leadership, initiative, relationship and team building, business sense, communication, vision and perspective, supervision, organizational savvy, ethical practices, fiscal responsibility, and length of service with the company. No single criterion was weighted more heavily than any other in this evaluation, as the Compensation Committee evaluated the executive's overall performance and contributions to our company in determining salary adjustments in 2008. In addition, the Compensation Committee considered the Chief Executive Officer's recommendations with respect to the other named executive officers. Based on this analysis, salaries for our executive officers were adjusted, effective June 1, 2008. These salaries continued in place through 2009.

In January 2010, we retained Compensation Strategies, Inc. to conduct a competitive assessment of our current compensation levels. The competitive market data presented in the compensation consultant's study for our Chief Executive Officer and our Chief Financial Officer was obtained from the SEC filings of a peer group comprised of the following 18 publicly-traded companies in the medical device/diagnostic monitoring equipment industry: Abaxis, Inc.; AGA Medical Holdings, Inc.; AngioDynamics, Inc.; ArthroCare Corporation; Cardiac Science Corporation; Gen-Probe Incorporated; Haemonetics Corporation; ICU Medical, Inc.; Meridian Bioscience, Inc.; Merit Medical Systems, Inc.; Myriad Genetics, Inc.; Natus Medical, Inc.; NuVasive, Inc.; Quidel Corporation; SonoSite, Inc.; Thoratec Corporation; Volcano Corporation; and ZOLL Medical Corporation. Public and private survey information was used for all other executive positions as a supplement to the proxy data. The market compensation data included median pay levels that were reflective of a company with annual revenues of \$400 million, which the Compensation Committee believed to be the appropriate benchmark in light of our size and our expected growth at that time. Our Compensation Committee also considered the information

provided through our paid subscription with Salary.com, which purports to provide up-to-date market compensation information as part of a continual research study. The data obtained from Salary.com purported to show salary ranges and distributions for all employees, including officers, holding comparable positions at companies of similar size, geographic location and market focus. The data from Salary.com did not name the companies from which the market data was obtained. In addition, our Compensation Committee considered market data from the Economic Research Institute, the Employers Group, which provides data regarding California payroll practices. Although our Compensation Committee references the data provided by third party sources to gain a general understanding of compensation levels, we do not engage in benchmarking against other companies' compensation programs or practices to establish our compensation levels or make specific compensation decisions with respect to our executive officers or other employees. Based on this analysis, we determined that an approximately 3% baseline salary increase was appropriate for all positions other than sales. We further considered the individual performance of the named executive officers for 2009 to determine whether to modify the baseline 3% increase based on the following qualitative factors: leadership, initiative, relationship and team building, business sense, communication, vision and perspective, supervision, organizational savvy, ethical practices, fiscal responsibility, and length of service with Masimo. No single criterion was weighted more heavily than any other in this evaluation, as the Compensation Committee evaluated the executive's overall performance for, contributions to and history with Masimo in determining salary adjustments. In addition, the Compensation Committee considered the Chief Executive Officer's recommendations with respect to the other named executive officers.

In June 2011, we retained Compensation Strategies, Inc. to conduct a new competitive assessment of our current compensation levels. The competitive market data presented in the compensation consultant's study for our Chief Executive Officer and our Chief Financial Officer was obtained from the SEC filings of a peer group comprised of the following 16 publicly-traded companies in the medical device/diagnostic monitoring equipment industry: Abaxis, Inc.; AngioDynamics, Inc.; ArthroCare Corporation; Gen-Probe Incorporated; Haemonetics Corporation; ICU Medical, Inc.; Meridian Bioscience, Inc.; Merit Medical Systems, Inc.; Myriad Genetics, Inc.; Natus Medical, Inc.; NuVasive, Inc.; Quidel Corporation; SonoSite, Inc.; Thoratec Corporation; Volcano Corporation; and ZOLL Medical Corporation. According to Compensation Strategies, the peer group of companies included in its assessment had annual revenues of \$325 million and an average market capitalization of \$1.2 billion, which the Compensation Committee believed to be the appropriate benchmark in light of our size and our expected growth at that time. Although our Compensation Committee references the data provided by third party sources to gain a general understanding of compensation levels, we do not engage in benchmarking against other companies' compensation programs or practices to establish our compensation levels or make specific compensation decisions with respect to our executive officers or other employees. Following its analysis of our executive compensation, our Compensation Committee determined that a 3% baseline salary increase was appropriate for all executive officers, which was the same percentage increase applied to all other Masimo employees in 2011.

The current base salaries for our named executive officers are as follows:

<b>Name and Position(s)</b>	<b>Salary</b>
Joe Kiani <i>Chief Executive Officer &amp; Chairman</i>	\$ 728,202
Mark P. de Raad <i>Executive Vice President, Chief Financial Officer &amp; Corporate Secretary</i>	324,700
Jon Coleman <i>President, Worldwide Sales, Marketing and Clinical Research</i>	325,892
Rick Fishel <i>President, Worldwide OEM Business &amp; Strategic Development</i>	325,892
Yongsam Lee <i>Chief Information Officer &amp; Executive Vice President, Regulatory Affairs</i>	319,654

The salaries of our named executive officers are the same base salaries approved by our Compensation Committee, effective July 1, 2011. The salary increases in July 2011 of our named executive officers reflected a 3% increase over their salaries for the period from January 1, 2010 through July 1, 2011, which is the same increase provided to our employees generally in 2011.

*Cash Bonuses.* Our Compensation Committee approves the annual cash bonuses for all executive officers. These bonuses, if earned, are paid after the end of the calendar year. We paid bonuses to our executive officers on March 15, 2012 pursuant to our Executive Annual Plan for our fiscal year 2011. We have not paid any significant signing or promotion bonuses to our executive officers, nor have we guaranteed any future bonuses to our executive officers.

*Annual Cash Bonuses.*

Bonuses paid to our named executive officers for 2011 were governed by our Executive Annual Plan, which became effective on January 1, 2007, and was most recently amended on September 15, 2008. The Executive Annual Plan also covers bonuses payable to our other executive officers and certain other exempt employees. To be eligible for a bonus under the plan for any plan year, the participant must be employed with us for at least six months and one day during the plan year. Pursuant to the terms of the Executive Annual Plan, the bonus award for each named executive officer was calculated based upon the product of (A) the named executive officer's base salary as of the end of the immediately preceding fiscal year, multiplied by (B) (i) the target bonus percentage factor assigned to the job classification level of the named executive officer, multiplied by (ii) the company percentage factor assigned by the Compensation Committee based upon Masimo's level of achievement of the immediately preceding fiscal year's financial and other non-financial targets multiplied by (iii) the named executive officer's individual percentage factor assigned by our Chief Executive Officer for the other named executive officers and, in the case of our Chief Executive Officer, assigned by our Compensation Committee. Under the Executive Annual Plan, our Compensation Committee has the authority to substitute a maximum bonus percentage for some or all plan participants in lieu of the target bonus percentage for the plan year. The Compensation Committee also has the authority to allow the Chief Executive Officer to determine, based on his own subjective analysis, whether the company percentage factor as approved by the Compensation Committee should be lowered, but he does not have the authority to increase the company percentage factor above the amount approved by the Compensation Committee.

*Company Factor.* Under the Executive Annual Plan, in the event the Compensation Committee determined that we (i) did not achieve 100% of the financial and other non-financial targets for 2011, it had the discretion to set the company percentage factor at below 100%, including zero; (ii) achieved 100% or more of the 2011 financial and other non-financial targets, the company percentage factor would automatically be set at 100%; and (iii) achieved more than 100% of the 2011 financial and other non-financial targets, it had the discretion to set the company percentage factor at or above 100%. For 2011, our corporate objectives focused upon achieving two financial targets: (a) total revenues of at least \$446 million, and (b) GAAP earnings per share of at least \$1.17. In addition, each employee, including each executive officer, had other individual objectives for the year which were designed to contribute to the achievement of our corporate objectives. In setting the objectives for the annual cash bonuses, our Compensation Committee believed that the 2011 corporate financial targets were achievable, but not easily attainable, provided that there was a maximum and sustained effort from each level of our organization. In 2011, with total revenues of \$439 million, the Compensation Committee determined that we did not achieve 100% of the total revenue goal and that, with earnings per share of \$1.05, we did not achieve 100% of the earnings per share goal. In addition to these financial targets, the Compensation Committee assessed the achievement level of the other non-financial goals, including product quality, customer satisfaction, unit shipments of both monitors and sensors and new product revenues and, based on this assessment, approved a 50% company factor contribution.

*Individual Factor.* Under the Executive Annual Plan, each named executive officer's individual percentage factor can range from 0% to 100%. For all of our named executive officers other than our Chief Executive Officer, the individual percentage factor for 2011 was determined by our Chief Executive Officer based solely

upon his subjective assessment of each other named executive officer's performance of the job-related duties and responsibilities assigned to such named executive officer during 2011. For purposes of determining the individual factor of our Chief Executive Officer under the Executive Annual Plan, the Compensation Committee makes a subjective determination of our Chief Executive Officer's overall performance during the applicable plan year, provided that in the event the Compensation Committee established the company percentage factor for any plan year at 100%, then our Chief Executive Officer's individual factor is automatically set at 100%. For the reasons noted above, the company factor for 2011 was set at 50% by our Compensation Committee. Our Chief Executive Officer's individual performance factor for 2011 under the Executive Annual Plan was set at 100% because the Compensation Committee determined that the Chief Executive Officer continued to demonstrate outstanding management performance in successfully guiding Masimo through a difficult economic environment, including by leading Masimo in achieving a variety of non-financial goals associated with product quality, extending our royalty agreement with Covidien, making new product introductions, including our Radical-7<sup>®</sup> with rainbow<sup>®</sup> Acoustic Monitoring capability for continuous display of the acoustic respiration rate (RRa<sup>™</sup>) waveform and measurements, protecting our intellectual property and achieving other internal operational metrics, including an increased volume of shipments of monitors and sensors.

The individual percentage factor for each of our other named executive officers for 2011 was also set at 100% based on our Chief Executive Officer's subjective determination of the level of achievement of individual, non-financial goals and the named executive officer's overall management contribution during 2011.

*Target Bonus Percentage.* Under the Executive Annual Plan, the target bonus percentage is based on the job classification of our employees and other key employees. Our Chief Executive Officer is at the highest job classification, which corresponded to a target bonus percentage of 50% for the 2011 plan year, as determined by our Compensation Committee. The target bonus percentage of our other executive officers was set at 40% by our Compensation Committee. These percentages were set by our Compensation Committee when the Executive Annual Plan was adopted in 2007.

*Maximum Bonus Percentage.* The Executive Annual Plan permits our Compensation Committee, in its sole discretion, to substitute a maximum bonus percentage in lieu of a plan participant's target bonus percentage. Along with the target bonus percentage, the maximum bonus percentage is generally based upon a participant's job classification level. For 2011, our Compensation Committee determined to substitute the following maximum bonus percentage for each of our named executive officers' target bonus percentages under the Executive Annual Plan: Joe Kiani: 97.8%; Mark P. de Raad: 46.2%; Jon Coleman: 46.8%; Rick Fishel: 46.1%; and Yongsam Lee: 46.3%. The Compensation Committee determined that substituting a maximum bonus percentage in lieu of the executive's target bonus percentage was important for purposes of recognizing each officer's exceptional contributions in the following areas in 2011: guiding Masimo through a difficult economic environment, leading Masimo in achieving a variety of non-financial goals associated with product quality, the extension of our royalty agreement with Covidien, new product introductions, including our Radical-7<sup>®</sup> with rainbow<sup>®</sup> Acoustic Monitoring capability for continuous display of the acoustic respiration rate (RRa<sup>™</sup>) waveform and measurements, which includes an In Vivo Adjustment<sup>™</sup> that allows clinicians to, for the first time, adjust the noninvasive measurements to the specific patient and laboratory reference device they use for invasive blood testing, protection of our intellectual property, execution of a long-term non-exclusive agreement with Philips under which Philips will integrate Masimo rainbow SET<sup>®</sup> technology into Philips' products, and other internal operational metrics, including an increased volume of shipments of monitors and sensors, and controlling overall costs. In using the maximum bonus percentage, the Compensation Committee also considered that it had determined not to commence a new plan period under the Executive Multi-Year Cash Bonus Award Plan (the Executive Multi-Year Plan) in 2011.

Using these amounts, the bonuses paid to our named executive officers under our Executive Annual Plan for 2011 were as follows:

Name and Position(s)	Bonus
Joe Kiani	\$ 356,050
<i>Chief Executive Officer &amp; Chairman</i>	
Mark P. de Raad	75,940
<i>Executive Vice President, Chief Financial Officer &amp; Corporate Secretary</i>	
Jon Coleman	68,661
<i>President, Worldwide Sales, Marketing and Clinical Research</i>	
Rick Fishel	75,178
<i>President, Worldwide OEM Business &amp; Strategic Development</i>	
Yongsam Lee	73,931
<i>Chief Information Officer &amp; Executive Vice President, Regulatory Affairs</i>	

The corporate level goals under the Executive Annual Plan for 2012 are initially established by the Chief Executive Officer and then reviewed and approved by our Compensation Committee annually during the first quarter of the year. Our Compensation Committee believes that the 2012 goals align well with our strategy of attaining sustainable growth. The specific targets under the plan are not disclosed because we believe disclosure of this information would cause us competitive harm. These targets are based on our confidential operating plan for the 2012 fiscal year and are intended to be realistic and reasonable, but challenging, in order to drive sustainable growth and performance of the company in 2012.

*Multi-Year Cash Bonuses.*

Our Compensation Committee adopted our Executive Multi-Year Plan to provide our executive officers with additional incentives to deliver exceptional financial and operational results in each three-year plan period. The Executive Multi-Year Plan became effective on January 1, 2008. We pay bonuses for a plan period under the Executive Multi-Year Plan only if the Executive Multi-Year Plan Administrator has approved written resolutions that either establish the terms and conditions relating to the payment of bonuses that will apply for the plan period, or otherwise approves the payment of bonuses. Each plan period is comprised of three consecutive calendar years. Our executives are eligible to receive a cash bonus at the end of an applicable three-year plan period based on our achievement of certain financial targets established by our Compensation Committee for the period as long as they have been employed with us for at least the last 18 months during the plan period. Pursuant to the terms of the Executive Multi-Year Plan, the bonus award for each named executive officer is calculated based upon the product of (A) three times the named executive officer's average salary over the three-year plan period, multiplied by (B) (i) the multi-year performance bonus percentage factor assigned to the job classification level of the named executive officer, multiplied by (ii) the company percentage factor assigned by the Compensation Committee based upon the attainment of financial measures established by our Compensation Committee during the first three months of the plan period, multiplied by (iii) the named executive officer's individual percentage factor assigned by the Chief Executive Officer for the other named executive officers and, in the case of our Chief Executive Officer, assigned by the Compensation Committee. Amounts payable under the Executive Multi-Year Plan are pro rated based on the number of full weeks during the plan period in which the participant is employed with us, subject to the 18-month employment requirement discussed above. The first plan period under the Executive Multi-Year Plan began on January 1, 2008 and ended on December 31, 2010.

The Compensation Committee has not approved the commencement of a new three-year plan period under the Executive Multi-Year Plan.

*Performance Bonus Percentage Factor.* Under the Executive Multi-Year Plan, the performance bonus percentage factor is based on the job classification of our employees and other key employees. Our Chief Executive Officer is at the highest job classification, which corresponded to a target bonus percentage of 50% for

the 2008 through 2010 plan period, as determined by our Compensation Committee. The target bonus percentage of our other executive officers was set at 40% for the 2008 through 2010 plan period by our Compensation Committee. These percentages were set by our Compensation Committee when the Executive Multi-Year Plan was adopted in 2007.

*Company Factor.* Under the Executive Multi-Year Plan, in the event the Compensation Committee determined that we (i) did not achieve 100% of the company's objectives and assessment criteria for the 2008 through 2010 plan period (the 2008-2010 Period Criteria), it had the discretion to set the company percentage factor at below 100%, including zero; (ii) achieved 100% or more of the 2008-2010 Period Criteria, the company percentage factor would automatically be set at 100%; and (iii) achieved more than 100% of the 2008-2010 Period Criteria, it had the discretion to set the company percentage factor at or above 100%. The 2008-2010 Period Criteria were comprised of various product revenue and earnings per share targets. In setting the 2008-2010 Period Criteria, our Compensation Committee believed that the criteria were stretch targets above the annual management bonus plan targets and therefore, were not easily attainable. The 2008-2010 Period Criteria for product revenues were \$258 million, \$328 million and \$420 million for the years ended 2008, 2009 and 2010, respectively. The 2008-2010 Period Criteria for earnings per share were \$0.57, \$0.79 and \$1.15 for the years ended 2008, 2009 and 2010, respectively. The Company achieved 100% of the company factor goals for 2008, 50% of the company factor goals for 2009 and none of the company factor goals for 2010. Although the Company had earnings per share of \$1.21 for 2010, \$0.18 of this amount related to one-time items and therefore our adjusted earnings per share for 2010 was \$1.03 for purposes of this plan. As a result, the Compensation Committee approved a 50% company factor contribution for the 2008 through 2010 plan period as the average of the Company's performance over the period.

*Individual Factor.* Under the Executive Multi-Year Plan, each named executive officer's individual percentage factor can range from 0% to 100%. For all of our named executive officers other than our Chief Executive Officer, the individual percentage factor for the 2008 through 2010 plan period was determined by our Chief Executive Officer based solely upon his subjective assessment of each other named executive officer's performance of the job-related duties and responsibilities assigned to such named executive officer during the period. For purposes of determining the individual factor of our Chief Executive Officer under the Executive Multi-Year Plan, the Compensation Committee makes a subjective determination of our Chief Executive Officer's overall performance during the applicable plan period, provided that in the event the Compensation Committee established the company percentage factor for any plan period at 100%, then our Chief Executive Officer's individual factor is automatically set at 100% for the period. For the reasons noted above, the company factor for the 2008 through 2010 plan period was set at 50% by our Compensation Committee. Based on a subjective assessment of the overall level of achievement during the 2008 through 2010 plan period, the Compensation Committee set our Chief Executive Officer's individual performance factor for this period under the Executive Multi-Year Plan at 100%. The individual percentage factor for each of our other named executive officers for the 2008 through 2010 plan period also was set at 100% based on our Chief Executive Officer's subjective determination of the level of achievement of individual, non-financial goals and the named executive's overall management contribution during this period.

There is currently no active bonus plan period under the Executive Multi-Year Plan. The decision to commence any future bonus plan period under the Executive Multi-Year Plan will be made by our Compensation Committee.

*Equity-Based Incentives.* Salaries and bonuses are intended to compensate our executive officers for short-term performance. We also have adopted an equity incentive approach intended to reward longer-term performance and to help align the interests of our executive officers with those of our stockholders. We believe that long-term performance is achieved through an ownership culture that rewards performance by our executive officers through the use of equity incentives. Our equity incentive plans have been established to provide our employees, including our executive officers, with incentives to help align those employees' interests with the interests of our stockholders. These equity incentive plans have provided the principal method for our executive officers to acquire equity interests in Masimo.

The size and terms of the initial option grant made to each executive officer upon joining us are primarily based on competitive conditions applicable to the executive officer's specific position and the executive officer's skill-set and prior experience and are set forth in the executive officer's offer letter from us. In approving the option grants, the Compensation Committee also considers the number of options owned by other executives in comparable positions within Masimo.

Any subsequent equity awards we make to our executive officers will be driven by our sustained performance over time, our executive officers' ability to impact our results that drive stockholder value, their level of responsibility within Masimo, their potential to fill roles of increasing responsibility, and competitive equity award levels for similar positions in comparable companies. Equity forms a key part of the overall compensation for each executive officer and is evaluated each year as part of the annual performance review process and incentive payout calculation.

The amount of equity awarded to each executive officer was based on the Compensation Committee's subjective determination of what was appropriate to incent the executives. Each of these grants vests over a five-year period with 20% vesting on each anniversary of the grant date. Since our initial public offering in August 2007, all stock options have been granted with an exercise price equal to the fair market value of a share of our common stock on the grant date, which the Compensation Committee has set as the closing price of our common stock, as reported on Nasdaq, on the grant date. All equity awards to our employees, including to executive officers and directors, have been granted and reflected in our consolidated financial statements, based upon the applicable accounting guidance, with the exercise price equal to the fair market value on the grant date.

In May 2007, our Compensation Committee adopted the CEO and Executive Officer Equity Award Compensation Policy (the "Equity Award Compensation Policy"), which provides for annual grants of stock options, upon achieving a predetermined criteria, to certain of our officers, including our named executive officers. The policy was amended effective January 4, 2008. For a description of the Policy, see "CEO and Executive Officer Equity Award Compensation Policy" below. Based on the overall assessment of the Compensation Committee, the following option grants were made to our named executive officers in 2011:

Name and Position(s)	Shares	Per Share Exercise Price	Grant Date
Joe Kiani	300,000	\$ 20.19	10/27/11
<i>Chief Executive Officer &amp; Chairman</i>	300,000	\$ 30.06	2/22/11
Mark P. de Raad	30,000	\$ 20.19	10/27/11
<i>Executive Vice President, Chief Financial Officer &amp; Corporate Secretary</i>	30,000	\$ 30.06	2/22/11
Jon Coleman	30,000	\$ 20.19	10/27/11
<i>President, Worldwide Sales, Marketing and Clinical Research</i>	25,000	\$ 30.06	2/22/11
Rick Fishel	30,000	\$ 20.19	10/27/11
<i>President, Worldwide OEM Business &amp; Strategic Development</i>	30,000	\$ 30.06	2/22/11
Yongsam Lee	30,000	\$ 20.19	10/27/11
<i>Chief Information Officer &amp; Executive Vice President, Regulatory Affairs</i>	30,000	\$ 30.06	2/22/11

Our Compensation Committee reviews its grant date practices for stock options to assure that our grant practices are aligned with what it believes constitute best practice guidelines. The Compensation Committee believes the foregoing grants were appropriate for accomplishing two compensation-related objectives: first, provide a greater emphasis on equity compensation of our executives in order to better align the long-term incentives of our executives with our stockholders generally; and, second, use equity awards as a more effective means to retain our key talent, including our executive officers. The Compensation Committee believes that placing a greater emphasis on equity compensation is a prudent approach to compensation and fits squarely within our recently adopted stock ownership policy, which requires that our Chief Executive Officer hold shares of Masimo stock with a value equal to at least six times his base salary and each of our other executive officers hold shares of Masimo stock with a value equal to at least one time his base salary. Our Compensation



Committee approved the additional grants in October 2011 to further these goals. In light of the grant of stock options to our executive officers in October 2011, our Compensation Committee does not plan to make any stock option or other equity grants to our executive officers in 2012.

Our Board adopted our 2007 Stock Incentive Plan (the 2007 Plan ) in November 2006, which permits the grant of stock options, stock appreciation rights, restricted stock, restricted stock units, performance units, performance shares and other stock-based awards. The 2007 Plan became effective on August 8, 2007 in connection with our initial public offering. No further equity awards will be made under our Third Amended and Restated 1996 Incentive Stock Option Nonqualified Stock Option and Restricted Stock Purchase Plan (the 1996 Plan ) or our 2004 Incentive Stock Option Nonqualified Stock Option and Restricted Stock Purchase Plan (the 2004 Plan ). However, any options outstanding under our 1996 Plan or our 2004 Plan will continue to be governed by their existing terms. In addition to our Equity Award Compensation Policy, the Compensation Committee intends to evaluate other stock option grant programs for executive officers to continue aligning the interests of these individuals with those of our stockholders. See Employee Benefit Plans 2007 Stock Incentive Plan below.

*Other Benefits.* We have a retirement savings plan in which all of our employees age 18 and older are entitled to participate. Employees contribute their own funds, as salary deductions, on a pre-tax basis. Contributions may be made up to plan limits, subject to government limitations. The retirement savings plan permits us to make matching contributions if we choose and we have historically provided matching contributions of up to three percent, subject to a maximum amount. We provide health care, dental, vision and life insurance, employee assistance plans and both short- and long-term disability, accidental death and dismemberment benefits to all full-time employees, including our executive officers. These benefits are available to all employees, subject to applicable laws. We believe these benefits are consistent with companies with which we compete for employees.

#### ***Severance and Termination Protection***

*Employment Agreement.* Under his employment agreement with us, Mr. Kiani is entitled to certain severance and change of control benefits, the terms of which are described in detail below under Employment Agreement and Offer Letters.

*Severance Protection Plan.* Our Board of Directors adopted our 2007 Severance Protection Plan, which became effective on July 19, 2007 and was amended on December 31, 2008, the terms of which are described in detail below under 2007 Severance Protection Plan. Under the terms of this plan, participants are entitled to cash, equity and other benefits upon their termination under certain circumstances. Messrs. Allan, Coleman, de Raad, Fishel, Lee and Sampath participate in our 2007 Severance Protection Plan. See 2007 Severance Protection Plan below.

*Acceleration of Vesting of Equity-Based Awards.* In the event of a change in control of us, certain provisions of our 1996 Plan and our 2004 Plan allow for 50% acceleration of unvested equity awards in the event an acquiror neither assumes awards outstanding under these plans nor issues our award holders substitute equity awards. In addition, our 2007 Plan permits acceleration of outstanding awards upon a change in control of us under certain circumstances. See Employee Benefit Plans below.

#### **Accounting and Tax Considerations**

We adopted an accounting standard for share-based payments using the prospective method, which requires us to expense the estimated fair value of employee stock options and similar awards based on the fair value of the award on the date of grant. To calculate the fair value of stock options, we use the Black-Scholes option pricing model which requires the input of subjective assumptions. These assumptions include estimating the length of time employees will retain their vested stock options before exercising them, the estimated volatility of our stock price over the expected term and the number of options that will ultimately be forfeited prior to meeting their vesting requirements.

Internal Revenue Code Section 162(m) limits the amount that we may deduct for compensation paid to our Chief Executive Officer and to each of our three other most highly compensated executive officers (other than our chief financial officer) to \$1 million per person unless certain exemption requirements are met. Exemptions to this deductibility limit may be made for various forms of performance-based compensation. All annual cash compensation paid to our executive officers for 2010, as well as 2007 and prior years did not exceed \$1 million per person, so the compensation has been deductible. Cash compensation paid to Mr. Kiani for 2009 and 2011 exceeded \$1 million and therefore \$29,600 and \$951,000 of his compensation was not deductible by us in 2009 and 2011, respectively. In addition to salary and bonus compensation, upon the exercise of stock options that are not treated as incentive stock options, the excess of the current market price over the option price, or option spread, is treated as compensation and accordingly, in any year, such exercise may cause an officer's total compensation to exceed \$1 million. Under certain regulations, option spread compensation from options that meet certain requirements will not be subject to the \$1 million cap on deductibility, and in the past we have granted options that met those requirements. The Compensation Committee has not established a policy for determining which forms of incentive compensation awarded to our executive officers shall be designed to qualify as performance-based compensation. To maintain flexibility in compensating our executive officers in a manner designed to promote our objectives, the Compensation Committee has not adopted a policy that requires all compensation to be deductible. However, our Compensation Committee may evaluate the effects of the compensation limits of Section 162(m) of the Code on any compensation it proposes to grant. The Compensation Committee intends to provide future compensation in a manner consistent with our best interests and those of our stockholders.

### **Compensation Recovery**

Under the Sarbanes-Oxley Act, in the event of misconduct that results in a financial restatement that would have reduced a previously paid incentive amount, we can recover those improper payments from our chief executive officer and chief financial officer. We have adopted a clawback policy in accordance with the requirements of the Dodd-Frank Act, which provides that in the event we are required to restate our financial statements as a result of material noncompliance with financial reporting requirements under the securities laws, we will recover from our current and former executive officers any incentive-based compensation (including stock option awards) that is (i) based on erroneous data, (ii) received during the three-year period preceding the date on which the Company becomes required to prepare an accounting restatement, and (iii) in excess of what would have been paid if calculated under the restatement. Once the SEC issues regulations or guidance regarding the required form of a clawback policy under the Dodd-Frank Act, we expect to amend our clawback policy accordingly.

### **Executive Officer Stock Ownership Policy**

In January 2012, our Nominating and Corporate Governance Committee adopted a stock ownership policy that is applicable to each of our executive officers. Our Nominating and Corporate Governance Committee believes our stock ownership policy is an important tool in aligning the interests of our executive officers with the long-term interests of our stockholders.

The policy requires that our Chief Executive Officer hold shares of Masimo stock with a value equal to at least six times his base salary and each of our other executive officers hold shares of Masimo stock with a value equal to at least one time his base salary. For purposes of calculating ownership under this policy, the following sources are included, whether vested or unvested: (i) shares of our common stock held directly by the executive officer or in a trust for the benefit of the executive officer or his family; (ii) shares of our common stock held by the executive officer jointly with, or separately by, the executive officer's spouse and/or children sharing the same household as the executive officer; (iii) shares of our common stock held by the executive officer through a profit sharing, savings or deferral plan; and (iv) restricted stock or phantom stock held by the executive officer. Stock options and unearned performance shares are not included in the calculation. For purposes of these requirements, an executive officer's base salary during any calendar year shall be deemed to be the executive officer's base salary as of the close of business on December 31st of the immediately preceding year.

To give our executive officers time to comply with our stock ownership policy, our Nominating and Corporate Governance Committee determined that our officers have until the later of March 2017 or March 1st of the sixth calendar year following the date an individual first becomes an executive officer of ours to comply with these guidelines.

Under our stock ownership policy, if an executive officer fails to meet or, in unique circumstances, fails to show sustained progress toward meeting the ownership requirements, we may reduce future long-term incentive equity grants, and/or payments of future annual and/or long-term cash incentive payouts in the form of stock. Our Compensation Committee retains the discretion not to levy these penalties under extraordinary conditions.

#### **Gross-Up Policy**

In October 2011, our Compensation Committee adopted a policy governing gross-up provisions in agreements and arrangements with our executive officers. Under this policy, our Compensation Committee will not approve any employment or other agreement or arrangement with any of our executive officers that includes a tax gross-up provision or a similar term that would require payments by us to an executive officer be made in the full amount, free of any deductions or withholdings, and without exercising any right of set-off, in connection with a change of control. This policy also provides that our Compensation Committee will not approve an amendment to extend the term of any current employment or other agreement or arrangement between us and any executive officer if such agreement or arrangements includes a tax gross-up provision or a similar term. Notwithstanding the foregoing, this policy provides that the provisions in Mr. Kiani's employment agreement, as currently in effect, requiring us to pay Mr. Kiani a gross-up or similar payment to cover Mr. Kiani's tax obligations, if any, for the reimbursement of his expenses and with respect to parachute payments, will continue and will not be deemed modified, impaired, limited or amended in any respect by this policy. For a detailed description of our employment agreement with Mr. Kiani, see Employment Agreement and Offer Letters Employment Agreement with Joe Kiani below.

#### **Compensation Policies and Practices**

Our compensation program is intended to reward the management team and other employees for strong performance over the long-term, with consideration to near-term actions and results that strengthen and protect Masimo. We consider the potential risks in our business when designing and administering our pay program, and we believe our balanced approach to performance measurement and pay delivery works to avoid misaligned incentives for individuals to undertake excessive or inappropriate risk. Further, program administration is subject to internal controls, and when determining the principal outcomes performance assessments and pay decisions we rely on principles of sound governance and good business judgment.

**Summary Compensation Table**

The following table provides information regarding the compensation earned during the fiscal year ended December 31, 2011 by our chief executive officer, our chief financial officer, and our three other most highly compensated executive officers who were employed with us as of December 31, 2011. We refer to these five individuals collectively as our named executive officers. We generally pay bonuses in the year following the year in which the bonus was earned. We did not grant any type of equity award other than stock options to our named executive officers or other employees during the year ended December 31, 2011.

Name and Principal Position(s)	Year	Salary	Bonus	Option Awards <sup>(1)</sup>	All Other Compensation	Total
Joe Kiani	2011	\$ 717,679	\$ 356,050 <sup>(2)</sup>	\$ 5,967,180	\$ 607,774 <sup>(3)</sup>	\$ 7,648,683
<i>Chief Executive Officer and Chairman (PEO)</i>	2010	708,412	834,794 <sup>(4)</sup>	3,283,770	278,386 <sup>(5)</sup>	5,105,362
	2009	688,647	195,624 <sup>(2)</sup>	3,523,410	21,831 <sup>(6)</sup>	4,429,512
Mark P. de Raad	2011	320,008	75,940 <sup>(7)</sup>	596,718	20,724 <sup>(8)</sup>	1,013,390
<i>Executive Vice President, Chief Financial Officer &amp; Corporate Secretary (PFO)</i>	2010	317,176	291,829 <sup>(9)</sup>	328,377	20,103 <sup>(10)</sup>	957,485
	2009	307,456	69,782 <sup>(2)</sup>	352,341	22,021 <sup>(11)</sup>	751,600
Jon Coleman	2011	319,951	68,661 <sup>(12)</sup>	538,375	20,724 <sup>(13)</sup>	947,711
<i>President, Worldwide Sales, Marketing and Clinical Research</i>	2010	298,863	230,251 <sup>(14)</sup>		20,103 <sup>(15)</sup>	549,217
	2009	270,964	61,529 <sup>(2)</sup>	531,020	21,831 <sup>(16)</sup>	885,344
Rick Fishel	2011	322,031	75,178 <sup>(17)</sup>	596,718	18,638 <sup>(18)</sup>	1,012,565
<i>President, Worldwide OEM Business &amp; Strategic Development</i>	2010	318,160	292,900 <sup>(19)</sup>	328,377	18,225 <sup>(20)</sup>	957,662
	2009	308,607	70,038 <sup>(2)</sup>	352,341	23,897 <sup>(21)</sup>	754,883
Yongsam Lee	2011	315,035	73,931 <sup>(22)</sup>	596,718	20,724 <sup>(23)</sup>	1,006,408
<i>Chief Information Officer &amp; Executive Vice President, Regulatory Affairs</i>	2010	314,509	283,153 <sup>(24)</sup>	328,377	20,103 <sup>(25)</sup>	946,142
	2009	307,955	69,371 <sup>(2)</sup>	352,341	21,831 <sup>(26)</sup>	751,498

<sup>(1)</sup> Amounts set forth in the Option Awards column for 2009, 2010 and 2011 reflect the grant date fair value of option awards granted in the year indicated, computed in accordance with authoritative accounting guidance. All of these amounts reflect certain assumptions with respect to these option awards and do not correspond to the actual value that will be recognized by the named executive officers. The actual value, if any, that may be realized from an option award is contingent upon the satisfaction of the conditions to vesting in that award, and upon the excess of the stock price over the exercise price, if any, on the date the option award is exercised. See Note 11 of the Notes to Financial Statements included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2011 filed with the SEC on February 17, 2012, for a discussion of assumptions made in determining the grant date fair value of the stock options granted in our fiscal years 2009, 2010 and 2011.

<sup>(2)</sup> Paid pursuant to the Executive Annual Plan.

<sup>(3)</sup> Consists of \$7,350 in retirement savings plan matching contributions, \$11,934 in medical insurance premiums, \$1,440 in life insurance premiums, \$377,699 for certain travel expenses incurred by Mr. Kiani and his immediate family in connection with Mr. Kiani's business meetings (the Travel Expenses), and a \$209,351 payment to reimburse Mr. Kiani for the taxes incurred pursuant to our payment of the Travel Expenses.

Under Mr. Kiani's employment agreement, we reimburse Mr. Kiani for all reasonable expenses incurred and paid by him in the course of the performance of his duties under the agreement and that we further reimburse him for all reasonable travel and lodging expenses for his immediate family in the event his immediate family accompanies him during business travel. Under the employment agreement, reasonable expenses include travel and hospitality expenses for first class airplane travel and accommodations and expenses for travel using private or chartered aircraft. In addition, under the agreement, each year Mr. Kiani is entitled to receive an additional payment equal to, after taxes, the amount of the taxes incurred by him under federal and state regulations pursuant to the expense reimbursement he received for the immediately preceding year under our reimbursement policy. See Employment Agreement and Offer Letters Employment Agreement with Joe Kiani below.

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- (4) Comprised of \$318,146 paid pursuant to the Executive Annual Plan and \$516,648 paid pursuant to the Executive Multi-Year Plan.
  - (5) Consists of \$7,350 in retirement savings plan matching contributions, \$11,415 in medical insurance premiums, \$1,338 in life insurance premiums, \$154,970 for Travel Expenses, and a \$103,313 payment to reimburse Mr. Kiani for the taxes incurred pursuant to our payment of the Travel Expenses.
  - (6) Consists of \$6,900 in retirement savings plan matching contributions, \$13,593 in medical insurance premiums and \$1,338 in life insurance premiums.
  - (7) Paid pursuant to the Executive Annual Plan.
  - (8) Consists of \$7,350 in retirement savings plan matching contributions, \$11,934 in medical insurance premiums and \$1,440 in life insurance premiums.
  - (9) Comprised of \$107,813 paid pursuant to the Executive Annual Plan and \$184,016 paid pursuant to the Executive Multi-Year Plan.
  - (10) Consists of \$7,350 in retirement savings plan matching contributions, \$11,415 in medical insurance premiums and \$1,338 in life insurance premiums.
  - (11) Consists of \$7,090 in retirement savings plan matching contributions, \$13,593 in medical insurance premiums and \$1,338 in life insurance premiums.
  - (12) Paid pursuant to the Executive Annual Plan.
  - (13) Consists of \$7,350 in retirement savings plan matching contributions, \$11,934 in medical insurance premiums and \$1,440 in life insurance premiums.
  - (14) Comprised of \$96,179 paid pursuant to the Executive Annual Plan and \$134,072 paid pursuant to the Executive Multi-Year Plan.
  - (15) Consists of \$7,350 in retirement savings plan matching contributions, \$11,415 in medical insurance premiums and \$1,338 in life insurance premiums.
  - (16) Consists of \$6,900 in retirement savings plan matching contributions, \$13,593 in medical insurance premiums and \$1,338 in life insurance premiums.
  - (17) Paid pursuant to the Executive Annual Plan.
  - (18) Consists of \$7,350 in retirement savings plan matching contributions, \$3,848 in medical insurance premiums and \$1,440 in life insurance premiums and \$6,000 in automobile allowances.
  - (19) Comprised of \$108,209 paid pursuant to the Executive Annual Plan and \$184,691 paid pursuant to the Executive Multi-Year Plan.
  - (20) Consists of \$7,350 in retirement savings plan matching contributions, \$3,537 in medical insurance premiums and \$1,338 in life insurance premiums and \$6,000 in automobile allowances.
  - (21) Consists of \$7,065 in retirement savings plan matching contributions, \$9,494 in medical insurance premiums, \$1,338 in life insurance premiums and \$6,000 in automobile allowances.
  - (22) Paid pursuant to the Executive Annual Plan.
  - (23) Consists of \$7,350 in retirement savings plan matching contributions, \$11,934 in medical insurance premiums and \$1,440 in life insurance premiums.
  - (24) Comprised of \$100,551 paid pursuant to the Executive Annual Plan and \$182,602 paid pursuant to the Executive Multi-Year Plan.
  - (25) Consists of \$7,350 in retirement savings plan matching contributions, \$11,415 in medical insurance premiums and \$1,338 in life insurance premiums.
  - (26) Consists of \$6,900 in retirement savings plan matching contributions, \$13,593 in medical insurance premiums and \$1,338 in life insurance premiums.

**Grants of Plan-Based Awards During Fiscal Year 2011**

The following table presents information concerning grants of plan-based awards to each of the named executive officers during the year ended December 31, 2011. For the fiscal year ended December 31, 2011, we granted options to purchase an aggregate of 2,276,850 shares of our common stock, with a weighted average exercise price of \$23.85 per share, to our employees, including grants to our named executive officers. The options included in the table below were issued under our 2007 Plan. Options granted under our 2007 Plan expire ten years from the date of grant. We did not grant any type of equity awards other than stock options to our named executive officers or other employees during the year ended December 31, 2011. See Employee Benefit Plans 2007 Stock Incentive Plan.

The exercise price per share of each option granted to our named executive officers was equal to the fair market value of our common stock, as determined by our Compensation Committee, on the date of the grant. The exercise price is payable in cash or by check, in shares of our common stock previously owned by the optionee, subject to certain limitations, pursuant to a cashless exercise program approved by our Compensation Committee or through any combination of the foregoing.

Name	Grant Date	All Other Option Awards: Number of Securities Underlying Options (#)	Exercise Price Per Share (\$/Sh)	Grant Date Fair Value of Option Awards (\$) <sup>(1)</sup>
Joe Kiani	2/22/11	300,000	\$ 30.06	\$ 3,500,610
	10/27/11	300,000	20.19	2,466,570
Mark P. de Raad	2/22/11	30,000	30.06	350,061
	10/27/11	30,000	20.19	246,657
Jon Coleman	2/22/11	25,000	30.06	291,718
	10/27/11	30,000	20.19	246,657
Rick Fishel	2/22/11	30,000	30.06	350,061
	10/27/11	30,000	20.19	246,657
Yongsam Lee	2/22/11	30,000	30.06	350,061
	10/27/11	30,000	20.19	246,657

<sup>(1)</sup> Amounts reflect the fair value per share as of the grant date of the award multiplied by the number of shares. The option exercise price has not been deducted from the amounts shown in this column. Regardless of the value on the grant date, the actual value will depend on the market value of our common stock on a date in the future when an award vests or stock option is exercised.

**Outstanding Equity Awards at December 31, 2011**

The following table presents the outstanding option awards held by each of our named executive officers as of December 31, 2011, including the value of the option awards. As of December 31, 2011, no other equity awards were outstanding.

Name	Option Grant Date	Number of Securities Underlying Unexercised Options (#) Exercisable	Option Awards <sup>(1)</sup>		Option Exercise Price (\$)	Option Expiration Date
			Number of Securities Underlying Unexercised Options (#) Unexercisable			
Joe Kiani	5/24/2007	120,000	60,000 <sup>(2)</sup>		\$ 15.40	5/24/2017
	2/7/2008	180,000	120,000 <sup>(3)</sup>		30.79	2/7/2018
	1/11/2009	120,000	180,000 <sup>(4)</sup>		23.98	1/11/2019
	2/11/2010	60,000	240,000 <sup>(5)</sup>		27.25	2/11/2020
	2/22/2011		300,000 <sup>(6)</sup>		30.06	2/22/2021
	10/27/2011		300,000 <sup>(7)</sup>		20.19	10/27/2021
Mark P. de Raad	7/17/2006	210,000			10.67	7/17/2016
	1/11/2009	12,000	18,000 <sup>(4)</sup>		23.98	1/11/2019
	2/11/2010	6,000	24,000 <sup>(5)</sup>		27.25	2/11/2020
	2/22/2011		30,000 <sup>(6)</sup>		30.06	2/22/2021
	10/27/2011		30,000 <sup>(7)</sup>		20.19	10/27/2021
Jon Coleman	8/11/2008	60,000	40,000 <sup>(8)</sup>		40.20	8/11/2018
	8/17/2009	20,000	30,000 <sup>(9)</sup>		24.68	8/17/2019
	2/22/2011		25,000 <sup>(6)</sup>		30.06	2/22/2021
	10/27/2011		30,000 <sup>(7)</sup>		20.19	10/27/2021
Rick Fishel	6/18/2004	45,000			2.75	6/18/2014
	4/14/2005	61,610			3.33	4/14/2015
	2/7/2008	10,889	12,000 <sup>(3),(10)</sup>		30.79	2/7/2018
	1/11/2009	8,770	18,000 <sup>(4),(11)</sup>		23.98	1/11/2019
	2/11/2010	6,000	24,000 <sup>(5)</sup>		27.25	2/11/2020
	2/22/2011		30,000 <sup>(6)</sup>		30.06	2/22/2021
	10/27/2011		30,000 <sup>(7)</sup>		20.19	10/27/2021
Yongsam Lee	8/7/2002	12,000			2.75	8/7/2012
	1/23/2003	19,620			2.75	1/23/2013
	7/14/2003	25,380			2.75	7/14/2013
	1/3/2005	96,000			2.75	1/3/2015
	2/7/2008	18,000	12,000 <sup>(3)</sup>		30.79	2/7/2018
	1/11/2009	12,000	18,000 <sup>(4)</sup>		23.98	1/11/2019
	2/11/2010	6,000	24,000 <sup>(5)</sup>		27.25	2/11/2020
	2/22/2011		30,000 <sup>(6)</sup>		30.06	2/22/2021
	10/27/2011		30,000 <sup>(7)</sup>		20.19	10/27/2021

<sup>(1)</sup> For each named executive officer, the shares listed in this table are subject to a single stock option award carrying the varying exercise prices as set forth herein. The shares subject to each stock option vest over a five-year period, with 20% of the shares subject to the option vesting on each anniversary of the grant date, with partial or full vesting under certain circumstances upon a change in control of Masimo or various events specified in the named executive officer's employment agreement or severance plan agreement, if applicable. The option awards remain exercisable until they expire ten years from the date of grant subject to earlier expiration following termination of employment.

<sup>(2)</sup> 20% of the shares subject to the option became exercisable on each of 5/24/08, 5/24/09, 5/24/10 and 5/24/11 and, subject to such earlier expiration or accelerated exercisability, 20% of the unexercisable shares relating to the option award will become exercisable on 5/24/12.

- (3) 20% of the shares subject to the option became exercisable on each of 2/7/09, 2/7/10, 2/7/11 and 2/7/12 and, subject to such earlier expiration or accelerated exercisability, 20% of the unexercisable shares relating to the option award will become exercisable on 2/7/13.
- (4) 20% of the shares subject to the option became exercisable on 1/11/10, 1/11/11 and 1/11/12 and, subject to such earlier expiration or accelerated exercisability, 20% of the unexercisable shares relating to the option award will become exercisable on each of 1/11/13 and 1/11/14.
- (5) 20% of the shares subject to the option became exercisable on 2/11/11 and 2/11/12 and, subject to such earlier expiration or accelerated exercisability, 20% of the unexercisable shares relating to the option award will become exercisable on each of 2/11/13, 2/11/14 and 2/11/15.
- (6) 20% of the shares subject to the option became exercisable on 2/22/11 and, subject to such earlier expiration or accelerated exercisability, 20% of the unexercisable shares relating to the option award will become exercisable on each of 2/22/12, 2/22/13, 2/22/14 and 2/22/15.
- (7) Subject to such earlier expiration or accelerated exercisability, 20% of the unexercisable shares relating to the option award will become exercisable on each of 10/27/12, 10/27/13, 10/27/14, 10/27/15 and 10/27/16.
- (8) 20% of the shares subject to the option became exercisable on each of 8/11/09, 8/11/10, 8/11/11 and, subject to such earlier expiration or accelerated exercisability, 20% of the unexercisable shares relating to the option award will become exercisable on each of 8/11/12 and 8/11/13.
- (9) 20% of the shares subject to the option became exercisable on each of 8/17/10, 8/17/11 and, subject to such earlier expiration or accelerated exercisability, 20% of the unexercisable shares relating to the option award will become exercisable on each of 8/17/12, 8/17/13 and 8/17/14.
- (10) Pursuant to a domestic relations order (the Domestic Relations Order), options covering 1,234 of these shares were transferred to Mr. Fishel's former spouse upon vesting on February 7, 2012 and options covering an additional 987 shares will be transferred to Mr. Fishel's former spouse upon (and subject to) vesting on February 7, 2013.
- (11) Pursuant to the Domestic Relations Order, options covering 718 of these shares were transferred to Mr. Fishel's former spouse upon vesting on January 11, 2012 and options covering an additional 538 shares and 430 shares will be transferred to Mr. Fishel's former spouse upon (and subject to) vesting on January 11, 2013 and January 11, 2014, respectively.

**Options Exercises and Stock Vested During Fiscal Year 2011**

The following table provides details regarding stock options exercised for each of our named executive officers during the fiscal year ended December 31, 2011. As of December 31, 2011, we had not issued any stock awards to our named executive officers or other employees.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise (\$)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting (\$)
Joe Kiani		\$		
Mark P. de Raad	30,000	730,000		
Jon Coleman				
Rick Fishel				
Yongsam Lee	21,000	555,046		

**Pension Benefits**

None of our named executive officers participates in or has account balances in qualified or non-qualified defined benefit plans sponsored by us.

**Nonqualified Deferred Compensation**

None of our named executive officers participate in or have account balances in non-qualified defined contribution plans or other deferred compensation plans maintained by us. The Compensation Committee, which



is comprised solely of outside directors, as defined for purposes of Section 162(m) of the Code, may elect to provide our officers and other employees with non-qualified defined contribution or deferred compensation benefits if the Compensation Committee determines that doing so is in our best interests.

### **Employment Agreement and Offer Letters**

#### ***Employment Agreement with Joe Kiani***

In April 2007, we entered into an employment agreement with Mr. Kiani, our Chief Executive Officer, which was most recently amended and restated on February 7, 2012. The agreement automatically renews on a daily basis and terminates three years from the date either party gives notice of termination to the other party.

The current employment agreement sets forth Mr. Kiani's base salary of \$728,202 per year, which is subject to adjustment by our Board or our Compensation Committee. Mr. Kiani is entitled to receive an annual bonus equal to 50% of his base salary in the event we attain certain financial goals set by our Board or our Compensation Committee; provided that, in the event our Board or Compensation Committee determines that we achieved each of the financial measures included in the criteria for the company percentage factor for a plan year under our Executive Annual Plan, Mr. Kiani shall automatically be entitled to receive a bonus equal to 50% of his base salary (or such higher percentage approved by our Board or Compensation Committee for such year. The employment agreement also entitles Mr. Kiani to participate in or receive benefits under all of our employee benefits plans and to be eligible to participate in any bonus plan created for the payment of bonuses to members of our management. In addition, the agreement provides that we will reimburse Mr. Kiani for all reasonable expenses incurred and paid by him in the course of the performance of his duties under the agreement and that we will further reimburse him for all reasonable travel and lodging expenses for his immediate family in the event his immediate family accompanies him during business travel. Under the employment agreement, reasonable expenses include travel and hospitality expenses for first class airplane travel and accommodations and expenses for travel using private or chartered aircraft. Mr. Kiani is exempt from our travel and expense policy and our expense reimbursement policy. In addition, under the agreement, each year Mr. Kiani is entitled to receive an additional payment equal to, after taxes, the amount of the taxes incurred by him under federal and state regulations pursuant to the expense reimbursement he received for the immediately preceding year under our reimbursement policy. The employment agreement also provides that Mr. Kiani will be granted, on an annual basis, a non-qualified stock option to purchase an aggregate of at least 300,000 shares of common stock that vests at a rate of 20% per year, with an exercise price equal to 100% of the fair market value of one share of common stock on the date of grant.

Under the employment agreement, we may terminate Mr. Kiani's employment for cause, as a result of his disability under certain circumstances or for any other reason. Similarly, Mr. Kiani may terminate his employment for good reason, for health reasons or for any other reason upon six months written notice to us. If Mr. Kiani is terminated for cause, he is entitled to receive his full base salary through the date of termination. If Mr. Kiani's employment is terminated as a result of his death, his designee or estate is entitled to receive his full base salary through the date of termination and an additional amount equal to 50% of his base salary in effect as of the date of his death for each of three consecutive years following his death, which shall be paid in substantially equal monthly installments over the three-year period. If Mr. Kiani's employment is terminated as a result of his disability, he is entitled to receive his full base salary through the date of termination and an additional amount equal to 75% of his base salary then in effect for each of two consecutive years following the date of termination, which shall be paid in substantially equal monthly installments over the two-year period. If we terminate Mr. Kiani's employment other than for cause, death or disability, or if Mr. Kiani terminates his employment with us for good reason, (i) he is entitled to receive his full base salary through the date of termination and an additional amount equal to two times the sum of his base salary then in effect plus the average annual bonus paid to Mr. Kiani over the prior three years, which shall be paid in installments over two years pursuant to our normal payroll practices, (ii) all of Mr. Kiani's outstanding options will immediately vest, and (iii) we will be required to pay the full exercise price of all vested options held by Mr. Kiani, as well as all withholding taxes on the issuance of the shares underlying the vested options. In addition, Mr. Kiani shall be

entitled to receive the foregoing payments and benefits in the event of a change in control of us or our Board. The cash payments must be paid to Mr. Kiani within thirty days of the change in control. Following a change in control, Mr. Kiani would not be entitled to receive any additional payments under the employment agreement.

In addition, if Mr. Kiani's employment is terminated for any reason other than cause or as a result of his death, he will be entitled to participate in all of our employee benefit plans and programs that he participated in as of the date of his termination for the full term of his employment agreement as long as his participation is possible under the general terms and provisions of the plans. If for any reason Mr. Kiani is not permitted to participate in any of our employee benefit plans or programs after the date of his termination, he will be entitled to reimbursement of the amount paid by Mr. Kiani to obtain similar coverage to that offered by our benefit plans and programs but only for an amount up to the amount we would otherwise have paid on behalf of Mr. Kiani as an employee of ours under his employment agreement as of the date of his termination. The foregoing benefits and payments may be subject to a delay of up to six months as necessary to avoid the imposition of additional tax under Section 409A of the Code.

For purposes of Mr. Kiani's employment agreement, termination for cause generally means his termination as a result of his willful and continued failure to substantially perform his duties under his employment agreement, his willful engaging in gross misconduct materially injurious to us or his willful violation of the provisions of his confidentiality agreement with us if the violation results in demonstrably material injury to us. Any termination for cause must be approved by at least 75% of the entire membership of our Board. Termination for good reason under the employment agreement generally means as a result of our assignment to Mr. Kiani of any duties other than those contemplated by his employment agreement, a reduction in Mr. Kiani's rate of compensation or fringe benefits or certain failures by us to comply with the compensation terms of the employment agreement. A change in control under the employment agreement generally means (i) the acquisition by any person or group of more than 35% of our outstanding voting stock, (ii) the acquisition of our assets that have a total fair market value of 40% or more of the total fair market value of all of our assets immediately before the acquisition by any person or group, or (iii) a change in a majority of the members of our Board in a rolling twelve month period, subject to certain limitations.

Under the employment agreement, if any payments or benefits payable to Mr. Kiani would be subject to the excise tax under Section 4999 of the Code, Mr. Kiani will be entitled to receive an additional gross-up payment to cover the amount of the excise taxes other than taxes imposed by Section 409A of the Code. An independent registered public accounting firm will make the initial determination as to whether a gross-up payment is required under the employment agreement.

See Potential Payments upon Termination or Change in Control below.

#### ***Offer Letters with Other Executive Officers***

Messrs. Allan, Coleman, de Raad, Fishel, Lee and Sampath each signed an offer letter before commencing their employment with us. The offer letters set forth each officer's position and title, starting salary, health benefits, number of options received and the vesting schedule of such options. Additionally, each offer letter states that the officer's employment is at-will and may be terminated at any time by either the officer or us for any reason. See Potential Payments upon Termination or Change in Control below.

#### **Employee Proprietary Agreements**

Each of our named executive officers has also entered into a standard form agreement with respect to proprietary information and inventions. Among other things, this agreement obligates each named executive officer to refrain from disclosing any of our proprietary information received during the course of his employment and, with some exceptions, to assign to us any inventions conceived or developed during the course of his employment.

## Cash Bonus Plans

In July 2007, our Board approved the following cash bonus plans, both of which cover our named executive officers:

### *Executive Annual Cash Bonus Award Plan*

The purpose of our Executive Annual Plan is to provide our executive officers with additional incentives to deliver exceptional financial and operational results on an annual basis. Our Executive Annual Plan became effective on January 1, 2007.

*Administration.* The Executive Annual Plan is administered by our Board or committee designated by the Board, which is referred to as the Administrator. Our Board has authorized our Compensation Committee to act as the Administrator. The Administrator has the right to construe the Executive Annual Plan, and to determine any factual or legal question arising in connection with the operation of the plan. In addition, the Administrator has the unilateral right to amend, suspend, modify or terminate the Executive Annual Plan at any time with respect to all or some executives and with respect to any unpaid bonuses that are or could have become payable, whether for the current or future years.

*Eligibility.* Any of our executive officers may participate in the Executive Annual Plan if the Administrator so determines pursuant to guidelines set forth in the plan. In addition, the Administrator may select other officers and key employees to participate in the Executive Annual Plan. However, unless the Administrator determines otherwise in writing for a particular plan year, an executive officer or other employee may not participate in the Executive Annual Plan if he or she is normally scheduled to work an average of less than forty hours per week or if the executive or other employee works for us for less than six months and one day during the applicable plan year. In addition, the Executive Annual Plan does not cover any executive or other employee who is covered by another cash bonus arrangement or non-equity variable compensation plan with us during the applicable plan year, excluding any severance plan or agreement with us and our Executive Multi-Year Plan discussed below. Each of our current executive officers was eligible to receive a cash bonus under the Executive Annual Plan for 2011.

*Bonus Amounts and Payments.* We pay bonuses for a plan year under the Executive Annual Plan if and only if the Administrator has approved written resolutions that either establish the terms and conditions relating to the payment of bonuses that will apply for the plan year, or otherwise approves the payment of bonuses. Our executives are entitled to bonuses only if they are still employed by us when we actually pay bonuses under the plan.

Under the Executive Annual Plan, our executives are eligible to receive an annual cash bonus based on our achievement of certain financial and other performance targets established by the Compensation Committee, as well as other quantitative and qualitative factors established by our Chief Executive Officer for the other named executive officers. Pursuant to the terms of the Executive Annual Plan, the bonus award for each named executive officer is calculated based upon the product of (A) the named executive officer's base salary as of the last day of the plan year, multiplied by (B) (i) the target bonus percentage factor assigned to the job classification level of the named executive officer, multiplied by (ii) the company percentage factor assigned by the Compensation Committee based upon the attainment of financial and other performance measures established by the Compensation Committee during the first three months of the plan year, multiplied by (iii) the named executive officer's individual percentage factor assigned by the Chief Executive Officer for the other named executive officers and, in the case of our Chief Executive Officer, assigned by the Compensation Committee. Under the Executive Annual Plan, the Compensation Committee has the discretion to pay a higher bonus amount by substituting in the above-referenced calculation a maximum bonus percentage for each participant's target bonus percentage factor for any plan year based upon the participant's job classification level. Amounts payable under the Executive Annual Plan are pro rated based on the number of full weeks during the plan year in which the participant is employed with us.

For purposes of the company percentage factor, in the event the Compensation Committee determines that we achieve (i) less than 100% of the financial and other performance targets for the plan year, it has the discretion to set the company percentage factor at any percentage, including zero, (ii) 100% of the financial and other performance measures for the plan year, the company percentage factor shall automatically be set at 100%, and (iii) more than 100% of the financial and other performance targets for the plan year, it has the discretion to set the company percentage factor at any percentage at or above 100%. For the bonuses paid for 2009 and 2010, the target bonus percentage factor assigned to the position of chief executive officer was 50% and the target bonus percentage factor assigned the positions of our other executive officers was 40%. For the bonuses paid for 2011, our Compensation Committee substituted a maximum bonus percentage for the target bonus percentage factor for our named executive officers as follows: Mr. Kiani: 97.8%; Mr. de Raad: 46.2%; Mr. Coleman: 46.8%; Mr. Fishel: 46.1%; and Mr. Lee: 46.3%. Under the Executive Annual Plan, each named executive officer's individual percentage factor could range from 0% to 100%. For all of our named executive officers other than our Chief Executive Officer, the individual percentage factor is determined by our Chief Executive Officer based upon our Chief Executive Officer's subjective determination of the participant's overall performance, taking into account such factors and goals assigned to the participant during the plan year. For purposes of determining the individual factor of our Chief Executive Officer under the Executive Annual Plan, the Compensation Committee makes a subjective determination of the Chief Executive Officer's overall performance during the plan year, provided that in the event the Compensation Committee establishes the company percentage factor at or above 100%, our Chief Executive Officer's individual percentage factor is automatically set at 100%.

#### ***Executive Multi-Year Cash Bonus Award Plan***

The purpose of our Executive Multi-Year Plan is to provide our executive officers with additional incentives to deliver exceptional financial and operational results over a three-year period. The Executive Multi-Year Plan became effective on January 1, 2008.

*Administration.* The Executive Multi-Year Plan is administered by our Board or a committee designated by the Board, which is referred to as the Administrator. Our Board has authorized our Compensation Committee to act as the Administrator. The Administrator has the right to construe the Executive Multi-Year Plan, and to determine any factual or legal question arising in connection with the operation of the Executive Multi-Year Plan. In addition, the Administrator has the unilateral right to amend, suspend, modify or terminate the Executive Multi-Year Plan at any time with respect to all or some executives and with respect to any unpaid bonuses that are or could have become payable, whether for the current or future years.

*Eligibility.* Any of our executive officers may participate in the Executive Multi-Year Plan if the Administrator so determines pursuant to guidelines in the plan. In addition, the Administrator may select other officers and key employees to participate in the Executive Multi-Year Plan. However, unless the Administrator determines otherwise in writing for a particular plan period, an executive officer or other employee may not participate in the Executive Multi-Year Plan if he or she is normally scheduled to work an average of less than forty hours per week or if the executive or other employee is not employed by us for the last eighteen months of the three-year plan period. In addition, the Executive Multi-Year Plan does not cover any executive or other employee who is covered by another cash bonus arrangement or non-equity variable compensation plan with us during the applicable plan period excluding any severance plan or agreement with us and our Executive Annual Plan. Each of our current executive officers, except Mr. Allan, was eligible to receive a cash bonus under the Executive Multi-Year Plan for the 2008 through 2010 plan period. The Compensation Committee has not approved the commencement of a new three-year plan period under the Executive Multi-Year Plan.

*Bonus Amounts and Payments.* We pay bonuses for a plan period under the Executive Multi-Year Plan if and only if the Administrator has approved written resolutions that either establish the terms and conditions relating to the payment of bonuses that will apply for the plan period, or otherwise approve the payment of bonuses. Each plan period is comprised of three consecutive calendar years. The first plan period under the Executive Multi-Year Plan began on January 1, 2008 and ended on December 31, 2010. The Compensation

Committee has not approved the commencement of a new three-year plan period under the Executive Multi-Year Plan. Our executives are entitled to bonuses only if they are still employed by us when we actually pay bonuses under the plan.

Under the Executive Multi-Year Plan, our executives are eligible to receive a cash bonus at the end of an applicable three-year bonus period based on our achievement of certain financial targets established by our Compensation Committee. Pursuant to the terms of the Executive Multi-Year Plan, the bonus award for each named executive officer is calculated based upon the product of (A) three times the named executive officer's average salary over the three-year plan period, multiplied by (B) (i) the multi-year performance bonus percentage factor assigned to the job classification level of the named executive officer, multiplied by (ii) the company percentage factor assigned by the Compensation Committee based upon the attainment of financial measures established by our Compensation Committee during the first three months of the plan period, multiplied by (iii) the named executive officer's individual percentage factor assigned by the Chief Executive Officer for the other named executive officers and in the case of our Chief Executive Officer, assigned by the Compensation Committee. Amounts payable under the Executive Multi-Year Plan are pro rated based on the number of full weeks during the plan period in which the participant is employed with us.

Under the Executive Multi-Year Plan, the performance bonus percentage factor is based on the job classification of our employees and other key employees. Our Chief Executive Officer is at the highest job classification, which corresponded to a target bonus percentage of 50% for the 2008 through 2010 plan period, as determined by our Compensation Committee. The target bonus percentage of our other executive officers was set at 40% for the 2008 through 2010 plan period by our Compensation Committee.

For purposes of the company percentage factor, in the event the Compensation Committee determines that we achieve (i) less than 100% of the financial measures for the plan period, it has the discretion to set the company percentage factor at any percentage, including zero; (ii) 100% of the financial measures for the plan period, the company percentage factor shall automatically be set at 100%; and (iii) more than 100% of the financial measures for the plan period, it has the discretion to set the company percentage factor at any percentage at or above 100%. Under the Executive Multi-Year Plan, each named executive officer's individual percentage factor could range from 0% to 100%. For all of our named executive officers other than our Chief Executive Officer, the individual percentage factor is determined by our Chief Executive Officer based upon our Chief Executive Officer's subjective determination of the participant's overall performance, taking into account such factors and goals assigned to the participant during the plan period. For purposes of determining the individual factor of our Chief Executive Officer under the Executive Multi-Year Plan, the Compensation Committee makes a subjective determination of the Chief Executive Officer's overall performance during the plan period, provided that in the event the Compensation Committee establishes the company percentage factor at or above 100%, then our Chief Executive Officer's individual percentage factor is automatically set at 100%.

## **Employee Benefit Plans**

### ***Third Amended and Restated 1996 Incentive Stock Option, Nonqualified Stock Option and Restricted Stock Purchase Plan***

Our 1996 Plan was initially adopted by our Board and approved by our stockholders in May 1996. The 1996 Plan terminated automatically on May 4, 2006 and we cannot grant any additional awards thereunder. However, options outstanding under the 1996 Plan will continue to be governed by their existing terms under the 1996 Plan. Any shares of our common stock that are issuable pursuant to options outstanding under our 1996 Plan that hereafter would otherwise become available for future grant under the 1996 Plan will be automatically added to the share reserve of our 2007 Plan. See 2007 Stock Incentive Plan below.

*Awards.* The 1996 Plan provided for grants of the following:

incentive stock options ( ISOs ), as defined under the Code, which could be granted solely to our employees, including officers and employee directors;

nonqualified stock options ( NSOs ), which could be granted to our directors, consultants or employees, including officers; and

stock purchase rights, which could be granted to our directors, consultants or employees, including officers. We did not grant any stock purchase rights under the 1996 Plan.

*Share Reserve.* As of March 15, 2012, an aggregate of 190,025 shares of our common stock were reserved for issuance under the 1996 Plan, comprised solely of options to purchase shares of common stock outstanding as of such date. Shares issued under the 1996 Plan may be previously unissued shares or reacquired shares bought on the market or otherwise.

*Administration.* Authority to control and manage the operation and administration of the 1996 Plan was vested with the Board, which was permitted to delegate some or all of such responsibilities to a committee. In this discussion, we refer to our Board and the Compensation Committee collectively as the Administrator. Subject to the terms of the 1996 Plan, the Administrator had the power to determine, among other things, the terms of the options or stock purchase rights granted, including the exercise price of the option or stock purchase right, the designation of stock options as ISOs or NSOs, the number of shares issuable under each option or stock purchase right, the exercisability of each option or stock purchase right, and the form of consideration payable upon the exercise of each option or stock purchase right. The Administrator also had the authority to amend, suspend or terminate the 1996 Plan, so long as no such action affected any shares of common stock previously issued and sold or any option previously granted under the 1996 Plan. During any calendar year, each optionee could only be granted options to purchase a maximum of 1,500,000 shares.

*Stock Options.* All stock options granted under the 1996 Plan were granted pursuant to a stock option agreement. Under the 1996 Plan, the exercise price of all ISOs granted under the 1996 Plan had to be at least equal to the fair market value of our common stock on the date of grant. The exercise price of NSOs granted under the 1996 Plan was determined by the Administrator, but in no event could be less than 85% of fair market value. For NSOs intended to qualify as performance-based compensation under Section 162(m) of the Code, the exercise price had to be at least equal to the fair market value of our common stock on the date of grant. For any participant who owned stock representing more than 10% of the voting power of all classes of our outstanding capital stock, the exercise price of any incentive stock option granted had to be at least equal to 110% of the fair market value on the grant date and the term of such incentive stock option could not exceed five years. The aggregate fair market value, determined at the time of grant, of shares of our common stock subject to ISOs that are exercisable for the first time by an optionee during any calendar year under all of our stock plans could not exceed \$100,000. The options or portions of options that exceed this limit are treated as NSOs. Stock options vest at the rate specified in the stock option agreement, as determined by the Administrator.

In general, the term of all other options granted under the 1996 Plan does not exceed ten years. If a participant's service relationship with us, or any affiliate of ours, terminates due to disability or death, the participant, or his or her beneficiary, may exercise any vested options during the one-year period immediately following termination of service, unless such options expire prior to such time. If an optionee's relationship with us, or any affiliate of ours, ceases for any reason other than disability or death, the optionee may exercise any vested options during the three-month period immediately following the termination of service, unless such options expire prior to such time.

Applicable forms of consideration for the exercise of options granted under the 1996 Plan were determined by the Administrator and may include cash or common stock previously owned by the optionee that have been held by the participant for at least six months, or payment through delivery of a promissory note, cancellation of indebtedness, a deferred payment arrangement, a broker-assisted exercise or other legal consideration or arrangements approved by the Administrator.

Options granted under our 1996 Plan are generally not transferable by the optionee, other than by will or the laws of descent and distribution, and each option is exercisable during the lifetime of the optionee only by such optionee.

*Change in Control.* Under the 1996 Plan and the forms of option agreement used under the 1996 Plan, in the event of a change in control of us, 50% of the unvested shares subject to outstanding options or repurchase rights will become fully vested and the Administrator may further:

provide for the purchase of each outstanding option or stock purchase right for an amount of cash or other property that could have been received upon the exercise of the option or stock purchase right as if they had been exercisable;

adjust the terms of the options and stock purchase rights in a manner determined by the Administrator to reflect the merger or sale of assets causing the change in control;

cause the options and stock purchase rights to be assumed by, or substituted with comparable rights by the successor corporation; or

make such other provisions as the Administrator may consider equitable.

If the Administrator does not take any of the foregoing actions, all options and stock purchase rights shall terminate upon the change in control, and the Administrator must provide written notice of the proposed transaction to be given to all participants not less than fifteen days prior to the effective date of the transaction.

#### ***2004 Incentive Stock Option, Nonqualified Stock Option and Restricted Stock Purchase Plan***

Our 2004 Plan was initially adopted by our Board and initially approved by our stockholders in April 2004. Unless terminated sooner, the 2004 Plan will terminate automatically pursuant to its terms in April 2014. Upon completion of our initial public offering in August 2007, at which time our 2007 Stock Incentive Plan became effective, all of the options available for future grant under our 2004 Plan as of such time automatically became reserved for awards issuable under our 2007 Plan. In addition, any shares of our common stock that are issuable pursuant to options outstanding under our 2004 Plan that hereafter would otherwise become available for future grant under the 2004 Plan will be automatically added to the share reserve of our 2007 Plan. See 2007 Stock Incentive Plan below. No further equity awards may be made under our 2004 Plan. However, options outstanding under the 2004 Plan will continue to be governed by their existing terms under the 2004 Plan.

*Awards.* The 2004 Plan provides for the grant of the following:

ISOs, which may be granted solely to our employees, including our executive officers; and

NSOs, which may be granted to our directors, consultants or employees, including officers; and

stock purchase rights, which may be granted to our directors, consultants or employees, including officers. We did not grant any stock purchase rights under the 2004 Plan.

*Share Reserve.* As of March 15, 2012, an aggregate of 1,751,615 shares of our common stock were reserved for issuance under the 2004 Plan, comprised solely of options to purchase shares of common stock outstanding as of such date. Shares issued under the 2004 Plan may be previously unissued shares or reacquired shares bought on the market or otherwise.

*Administration.* Authority to control and manage the operation and administration of the 2004 Plan is vested with the Board, which may delegate some or all of such responsibilities to a committee. In this discussion, we refer to our Board and the Compensation Committee collectively as the Administrator. Subject to the terms of the 2004 Plan, the Administrator has the power to determine, among other things, the terms of the options or stock purchase rights granted, including the exercise price of the option or stock purchase right, the designation of stock options as ISOs or NSOs, the number of shares issuable under each option or stock purchase right, the exercisability of each option or stock purchase right, and the form of consideration payable upon the exercise of each option or stock purchase right. The Administrator has the authority to amend, suspend or terminate the 2004 Plan, so long as no such action affects any shares of common stock previously issued and sold or any option previously granted under the 2004 Plan. During any calendar year, each optionee may be granted options to purchase a maximum of 500,000 shares under the 2004 Plan.





*Stock Options.* All stock options granted under the 2004 Plan were granted pursuant to a stock option agreement. The exercise price of all ISOs granted under the 2004 Plan must be at least equal to the fair market value of our common stock on the date of grant. The exercise price of NSOs granted under the 2004 Plan is determined by the Administrator, but in no event may be less than 85% of fair market value. For NSOs intended to qualify as performance-based compensation under Section 162(m) of the Code, the exercise price must be at least equal to the fair market value of our common stock on the date of grant. For any participant who owns stock representing more than 10% of the voting power of all classes of our outstanding capital stock, the exercise price of any incentive stock option granted must be at least equal to 110% of the fair market value on the grant date and the term of such incentive stock option must not exceed five years. The aggregate fair market value, determined at the time of grant, of shares of our common stock subject to ISOs that are exercisable for the first time by an optionee during any calendar year under all of our stock plans may not exceed \$100,000. The options or portions of options that exceed this limit are treated as NSOs. Stock options vest at the rate determined by the Administrator, provided that at least 20% of the shares subject to any option shall become exercisable each year over a five-year period. At the discretion of the Administrator, the stock option agreement may provide that for ninety days following termination of a participant's employment with us or one of our subsidiaries, we will have the right to repurchase, at the fair market value of our common stock, any shares issued to a participant pursuant to the exercise of an option.

In general, the term of all other options granted under the 2004 Plan may not exceed ten years. If a participant's service relationship with us, or any affiliate of ours, terminates due to disability or death, the participant, or his or her beneficiary, may exercise any vested options during the one-year period immediately following termination of service, unless such options expire prior to such time. If an optionee's relationship with us, or any affiliate of ours, ceases for any reason other than disability or death, the optionee may exercise any vested options during the forty-five day period immediately following the termination of service, unless such options expire prior to such time. In the event a participant's service relationship with us, or any affiliate of ours, terminates other than due to disability or death, we have the right to repurchase from the participant any shares of common stock issued to the participant under the 2004 Plan at a purchase price equal to the fair market value of our common stock as of the date the participant's service terminated. The repurchase right may be exercised at any time during the ninety day period following the date of the participant's termination.

Applicable forms of consideration for the exercise of options granted under the 2004 Plan will be determined by the Administrator and may include cash or common stock previously owned by the optionee that have been held by the participant for at least six months, or payment through a deferred payment arrangement, a broker-assisted exercise or other legal consideration or arrangements approved by the Administrator.

Options granted under our 2004 Plan are generally not transferable by the optionee, other than by will or the laws of descent and distribution, and each option is exercisable during the lifetime of the optionee only by such optionee.

*Change in Control.* Under the 2004 Plan and the forms of NSO and ISO agreements, in the event of a change in control of us:

in which the acquiror neither assumes the options outstanding under the 2004 Plan nor issues the 2004 Plan participants substitute stock options under the acquiror's equity plan in exchange for the 2004 Plan stock options, then 50% of the unvested options outstanding under the 2004 Plan shall automatically become fully vested as of prior to the consummation of the change in control. The 2004 Plan participants would be entitled to exercise their vested options at any time prior to the change in control and all options outstanding under the 2004 Plan that are not exercised prior to the change in control would automatically terminate.

in which the acquiror elects to assume the options outstanding under the 2004 Plan, each plan participant's options would continue to be governed by the terms of the 2004 Plan and his or her 2004 Plan option agreements. If, following the change in control, the participant remains employed with us

or one of our subsidiaries, or the participant becomes an employee of the acquiror (or one of its affiliates), then 50% of the participant's unvested options outstanding under the 2004 Plan shall automatically become fully vested in the event either the participant is terminated from employment without cause or the participant terminates his or her employment due to a material negative change in job position.

in which the acquiror elects to issue the 2004 Plan participants substitute options under the acquiror's equity plan in exchange for terminating the participant's 2004 Plan stock options, the substitute options would be governed by the terms of the acquiror's equity plan and accompanying form of option agreement. If, following the change in control, the participant remains employed with us or one of our subsidiaries, or the participant becomes an employee of the acquiror (or one of its affiliates), then 50% of the participant's unvested options outstanding under the 2004 Plan shall automatically become fully vested in the event either the participant is terminated from employment without cause or the participant terminates his or her employment due to a material negative change in job position.

Under the 2004 Plan, a change in control generally includes:

an acquisition of 80% or more of our outstanding stock by any person or group;

a merger or consolidation of us after which our stockholders as of immediately prior to the merger or consolidation own 20% or less of the surviving entity;

a sale of all or substantially all of our assets; or

a complete liquidation or dissolution of Masimo.

For purposes of the 2004 Plan, cause means the participant's conviction of a felony, an act of material dishonesty or fraud by the participant against us or our stockholders, or the participant's willful breach of any duty owed by the participant to us or our subsidiaries and material negative change in job position means a reduction in the participant's base compensation or a substantial diminution in the participant's duties and responsibilities.

### ***2007 Stock Incentive Plan***

Our Board adopted our 2007 Stock Incentive Plan (the 2007 Plan) in November 2006. The 2007 Plan was approved by our stockholders in June 2007 and became effective upon the effective date of our initial public offering on August 7, 2007. The 2007 Plan will terminate on August 7, 2017, unless our Board terminates it earlier.

*Awards.* The 2007 Plan provides for the grant of the following awards:

ISOs, which may be granted solely to our employees, including our executive officers; and

NSOs, stock appreciation rights, restricted stock awards, unrestricted stock awards, restricted stock unit awards and performance awards, which may be granted to our directors, consultants or employees, including our executive officers.

*Purpose.* The purpose of our 2007 Plan is to encourage and enable our directors, consultants and employees, including our executive officers, to acquire or increase their holdings of common stock and other interests in us in order to promote a closer identification of their interests with those of us and our stockholders, thereby further stimulating their efforts to enhance our efficiency, soundness, profitability, growth and stockholder value.

*Administration.* The 2007 Plan is administered by the Compensation Committee of our Board, provided that our Board may act in lieu of the Compensation Committee on any matter. In this discussion, we refer to our Board and the Compensation Committee collectively as the Administrator. Subject to the terms and conditions of



the 2007 Plan, the Administrator is authorized to select participants, determine the type and number of awards to be granted and the number of shares to which awards will relate or the amount of a performance award, specify dates at which awards will be exercisable or settled, including performance conditions that may be required as a condition thereof, set other terms and conditions of such awards, prescribe forms of award agreements, interpret and specify rules and regulations relating to the 2007 Plan, and make all other determinations that may be necessary or advisable for the administration of the 2007 Plan. Acceptable forms of consideration for the purchase of our common stock issued under the 2007 Plan will be determined by the Administrator and may include cash, common stock previously owned by the participant, payment through a broker-assisted exercise or any combination of the foregoing. In addition, the Administrator may delegate its authority under the 2007 Plan to the extent permitted by the Delaware General Corporation Law, except delegation is limited where necessary to meet requirements under Rule 16b-3 under the Exchange Act or Section 162(m) of the Code. Neither we nor the Administrator may reprice any stock option or stock appreciation right granted under the 2007 Plan without first obtaining the approval of our stockholders.

*Share Reserve.* As of March 15, 2012, an aggregate of 11,551,149 shares of our common stock were reserved for issuance under the Plan, plus the number of shares of our common stock that were previously authorized for issuance under our 1996 Plan and 2004 Plan that have become available for future issuance under those plans after the effectiveness of our 2007 Plan, and any additional shares that otherwise would have become available for future issuance under our 1996 Plan and 2004 Plan. In addition, unless otherwise provided by the Administrator, this amount will be automatically increased annually on the first day of each fiscal year by 3% of the aggregate number of shares of our common stock outstanding on the last day of the immediately preceding fiscal year. Shares of our common stock subject to options and other stock awards that have expired or otherwise terminate under the 2007 Plan without having been exercised in full will again become available for grant under the 2007 Plan. Shares of our common stock issued under the 2007 Plan may include previously unissued shares or reacquired shares bought on the market or otherwise. If any shares of our common stock subject to a stock award are not delivered to a participant because such shares are withheld for the payment of taxes or the stock award is exercised through a net exercise, then the number of shares that are not delivered to participants shall again become available for grant under the 2007 Plan. In addition, if the exercise of any stock award is satisfied by tendering shares of our common stock held by the participant, then the number of shares tendered shall become available for grant under the 2007 Plan. The maximum number of stock options and stock appreciation rights that may be issued to a single participant in any calendar year under our 2007 Plan is 3,000,000 shares. As of March 15, 2012, there were 6,382,050 shares of common stock subject to options outstanding under our 2007 Plan.

*Stock Options.* Stock options will be granted pursuant to stock option agreements. The exercise price for stock options cannot be less than 100% of the fair market value of our common stock on the date of grant. Options granted under the 2007 Plan will vest at the rate specified in the option agreement. A stock option agreement may provide for early exercise of NSOs prior to vesting. Unvested shares of our common stock issued in connection with an early exercise may be repurchased by us upon termination of the participant's service. In general, the term of stock options granted under the 2007 Plan may not exceed ten years. Unless the terms of a participant's stock option agreement provide for earlier or later termination, if a participant's service relationship with us, or any affiliate of ours, ceases for any reason other than for cause, disability or death, the participant may exercise any vested options for up to ninety days after the date the service relationship ends, unless the terms of the stock option agreement provide for a longer or shorter period to exercise the option. If a participant's service relationship with us, or any affiliate of ours, ceases due to disability, the participant may exercise any vested options for up to one year after the date the service relationship ends. If a participant's service relationship with us, or any affiliate of ours, ceases due to death, or the participant dies within thirty days following the date the service relationship ends other than for cause, the participant's beneficiary may exercise any vested options for up to one year following the date of death. If a participant's relationship with us, or any affiliate of ours, ceases due to termination for cause, the option will terminate at the time the participant's relationship with us, or an affiliate of ours, terminates. In no event may an option be exercised after its expiration date.

Incentive stock options may be granted only to our employees, including executive officers. The aggregate fair market value, determined at the time of grant, of shares of our common stock with respect to ISOs that are exercisable for the first time by a participant during any calendar year under all of our equity plans may not exceed \$100,000. The options or portions of options that exceed this limit are automatically treated as NSOs. No ISO may be granted to any person who, at the time of the grant, owns or is deemed to own stock representing more than 10% of the total combined voting power of us or any affiliate of ours unless the following conditions are satisfied:

the option exercise price is at least 110% of the fair market value of our common stock on the date of grant; and

the term of the ISO does not exceed five years from the date of grant.

*Stock Appreciation Rights.* Stock appreciation rights will be granted through a stock appreciation rights agreement. Each stock appreciation right is denominated in common stock equivalents. The exercise price of each stock appreciation right will be determined by the Administrator at the time of grant and will not be less than 100% of the fair market value of the common stock underlying the right. In general, the term of a stock appreciation right may not exceed ten years. Upon exercise of a stock appreciation right, we will pay the participant an amount equal to the excess of (i) the aggregate fair market value of our common stock on the date of exercise, over (ii) the aggregate exercise price determined by the Administrator on the date of grant. Stock appreciation rights will be paid either in cash, in shares of our common stock or partly in cash and partly in shares. Unless otherwise provided in a stock appreciation rights agreement, all stock appreciation rights will be settled in shares of our common stock, with cash paid for fractional shares. The administrator may also impose any restrictions or conditions upon the vesting of stock appreciation rights that it deems appropriate. A recipient's stock appreciation rights agreement shall specify the terms upon which the recipient may exercise a stock appreciation right in the event the recipient's relationship with us, or any affiliate of ours, ceases for any reason. Absent this disclosure, a stock appreciation right shall be governed by the same post-termination provisions applicable to options granted under the 2007 Plan, as discussed above. Stock appreciation rights carry no voting or dividend rights or other rights associated with stock ownership.

*Restricted and Unrestricted Stock Awards.* Restricted stock awards will be granted pursuant to restricted stock award agreements. A restricted stock award may be issued for nominal or no cost and may be granted in consideration for the recipient's past or future services performed for us or an affiliate of ours. Participants receiving a restricted stock award generally have all of the rights of a stockholder with respect to such stock, including rights to vote the shares and receive dividends. Shares of our common stock acquired under a restricted stock award will be subject to forfeiture to us in accordance with vesting conditions based upon a schedule or performance criteria established by the Administrator. Generally, except as otherwise provided in the applicable restricted stock award agreement, restricted stock awards that have not vested will be forfeited upon the participant's termination of continuous service with us or an affiliate of ours for any reason. We will return the purchase price for a forfeited restricted stock award only if set forth in the participant's restricted stock award agreement.

Unrestricted stock awards are similar to restricted stock awards, provided that shares of our common stock acquired under an unrestricted stock award will be fully vested on the date of grant.

*Restricted Stock Unit Awards.* Restricted stock unit awards will be granted pursuant to restricted stock unit award agreements. Restricted stock units are denominated in common stock equivalents. They are typically awarded to participants without payment of consideration, but are subject to vesting conditions based upon a schedule or performance criteria established by the Administrator. Unlike restricted stock, the stock underlying restricted stock units will not be issued until the stock units have vested. Prior to settlement, restricted stock unit awards carry no voting or dividend rights or other rights associated with stock ownership, but unless otherwise provided in a participant's restricted stock unit award agreement, dividend equivalents will accrue from the date the award is granted until the date the shares underlying a restricted stock unit are issued. Except as otherwise

provided in the applicable restricted stock unit award agreement, restricted stock units that have not vested will be forfeited upon the participant's termination of continuous service with us or an affiliate of ours for any reason.

*Performance Awards.* Performance awards may be granted, vest or be exercised based upon the attainment of certain performance goals during a certain period of time. The performance awards may be issued as performance-based compensation that is not subject to the income tax deductibility limitations imposed by Section 162(m) of the Code if the grant or vesting of one or more stock awards and the delivery of cash is tied solely to the attainment of certain performance goals during a designated performance period. The length of any performance period, the performance goals to be achieved during the performance period and the measure of whether, and to what degree, such performance goals have been attained shall be determined by the Administrator. The maximum amount to be received by any individual in any performance period, which shall not be less than one fiscal year, under performance awards issued under the 2007 Plan, may not exceed 3,000,000 shares of our common stock and \$1,000,000 in cash.

*Internal Revenue Code Section 409A Requirements.* Certain awards under the 2007 Plan may be considered nonqualified deferred compensation for purposes of Section 409A of the Code (Section 409A), which imposes certain requirements on compensation that is deemed under Section 409A to involve nonqualified deferred compensation. Among other things, the requirements relate to the timing of elections to defer, the timing of distributions and prohibitions on the acceleration of distributions. Failure to comply with these requirements (or an exception from such requirements) may result in the immediate taxation of all amounts deferred under the nonqualified deferred compensation plan for the taxable year and all preceding taxable years, by or for any participant with respect to whom the failure relates, the imposition of an additional 20% income tax on the participant for the amounts required to be included in gross income and the possible imposition of penalty interest on the unpaid tax. Generally, Section 409A does not apply to incentive awards that are paid at the time the award vests. Likewise, Section 409A typically does not apply to restricted stock. Section 409A may, however, apply to incentive awards the payment of which is delayed beyond the calendar year in which the award vests. Treasury regulations generally provide that the type of awards provided under the 2007 Plan will not be considered nonqualified deferred compensation. However, to the extent that Section 409A applies to an award issued under the 2007 Plan, the 2007 Plan and all such awards will, to the extent practicable, be construed in accordance with Section 409A. Under the 2007 Plan, the Administrator has the discretion to grant or to unilaterally modify any award issued under the 2007 Plan in a manner that conforms with the requirements of Section 409A with respect to deferred compensation, or voids any participant election to the extent it would violate Section 409A. The Administrator also has sole discretion to interpret the requirements of the Code, including Section 409A, for purposes of the 2007 Plan and all awards issued under the 2007 Plan.

*Transferability of Awards.* Generally, a participant may not transfer an award granted under the 2007 Plan other than by will or the laws of descent and distribution. However, a participant may transfer an NSO pursuant to a domestic relations order. In addition, if provided in an award agreement, NSOs, stock appreciation rights settled in shares, restricted stock awards and performance awards granted under the 2007 Plan may be transferred by instrument to the participant's immediate family or an inter vivos or testamentary trust or by gift to charitable institutions.

*Changes to Capital Structure.* In the event there is a specified type of change in our capital structure not involving the receipt of consideration by us, such as a stock split, stock dividend, combination, recapitalization, or reclassification, the number of shares reserved under the 2007 Plan and the number of shares and exercise price, if applicable, of all outstanding stock awards will be appropriately adjusted.

*Change in Control.* In the event of a change in control of us, the Administrator may take one or more of the following actions without the consent of any 2007 Plan participant or stockholder of ours:

arrange for all outstanding stock awards under the 2007 Plan to be assumed, continued, or substituted for by any entity surviving the change in control;

accelerate in part or in full the vesting provisions of stock awards held by participants;

arrange or otherwise provide for the payment of cash or other consideration to participants in exchange for the satisfaction or cancellation of such stock awards; or

generally make such other modifications, adjustments or amendments to outstanding awards or the 2007 Plan as the Administrator deems necessary or appropriate.

In the event that an award outstanding under the 2007 Plan is not exercised in full prior to consummation of a change in control in which the award is not being assumed, continued, or substituted for, the award shall automatically terminate as of immediately prior to the consummation of the transaction. In addition, the 2007 Plan provides that in the event a participant is involuntarily terminated in connection with, or within 12 months after, a change in control of us, each of the participant's stock awards outstanding under the 2007 Plan that are assumed, continued, or substituted for by a surviving entity in connection with the change in control will become fully vested.

Involuntary termination includes (i) a discharge without cause, or (ii) voluntary resignation by the participant within 60 days following a material reduction in the participant's job responsibilities, an involuntary relocation of participant's work site to a location more than 50 miles from the participant's work site as of immediately prior to the change in control or a material reduction in the participant's total compensation other than as part of a reduction by the same percentage amount of the compensation of all other similarly-situated employees. A change in control generally includes:

a merger or consolidation of us after which our own stockholders as of immediately prior to the merger or consolidation own 50% or less of the surviving entity;

a sale of all, or substantially all, of our assets;

a complete liquidation or dissolution of us; or

an acquisition of 50% or more of our outstanding stock by any person or group.

*Plan Amendments.* Our Board will have the authority to amend or terminate the 2007 Plan. However, no amendment or termination of the plan will adversely affect any rights under outstanding awards unless agreed to in writing by the affected participant. We will obtain stockholder approval of any amendments to the 2007 Plan as required by applicable law.

#### **CEO and Executive Officer Equity Award Compensation Policy**

In May 2007, our Board adopted our Equity Award Compensation Policy, which was most recently amended effective January 4, 2008. Under the Equity Award Compensation Policy, our Chief Executive Officer and other executive officers designated by our Compensation Committee are eligible to receive an annual non-qualified stock option grant. Generally an executive officer is first eligible to receive an annual grant once the executive first becomes vested as to at least 60% of the first option grant the executive receives from us. Once eligible, our Chief Executive Officer will receive an annual option grant to purchase an aggregate of 300,000 shares of common stock and our other executive officers may receive an annual option grant to purchase the number of shares of common stock approved by our Compensation Committee at the time of grant. The specific amount of the stock option for each named executive officer other than our Chief Executive Officer is based on a subjective assessment by the Compensation Committee of the extent to which the stock options will further our company's goals of retaining executives and motivating the executives to achieve strong long-term performance. In connection with this determination, the Compensation Committee also takes prior year grant levels and individual roles and responsibilities when determining the specific amount of the option award values to be awarded to each of the other named executive officers. All options granted under the Equity Award Compensation Policy will have an exercise price equal to the fair market value of our common stock on the date of grant and vest at a rate of 20% per year over five years. Messrs. Kiani, de Raad, Fishel, and Lee received a

stock option grant pursuant to the policy in January 2009, February 2010, and February 2011. Messrs. Kiani, de Raad, Coleman, Fishel, and Lee received a stock option grant pursuant to the policy in February 2011. See Components of our Compensation Approach Equity Based Incentives above.

### **Accrued Vacation Payout Policy**

In 2008, our Compensation Committee adopted an accrued vacation payout policy. Under the policy, all employees are eligible to accrue vacation up to an amount equal to two times their annual vacation accrual rate. For example, an employee who accrues three weeks of vacation per year is eligible to accrue up to six weeks of accrued vacation under the policy. At the time the policy was adopted, if any employee had accrued vacation in an amount equal to greater than the amount of vacation the employee accrued on an annual basis, then we paid the employee cash consideration for the full amount of accrued vacation above the employee's annual accrued vacation rate. The policy applies equally to all of our employees and is designed to help us manage our vacation accrual exposure.

### **2007 Severance Protection Plan**

Our Board adopted the 2007 Severance Protection Plan (the Severance Plan) which covers four of our named executive officers. The Severance Plan became effective on July 19, 2007, and was amended effective December 31, 2008. The purpose of the Severance Plan is to treat employees who are terminated in a fair and compassionate manner by mitigating the adverse financial effects of such termination. Messrs. Allan, Coleman, de Raad, Fishel, Lee, and Sampath participate in the Severance Plan and have entered into severance agreements with us, which are referred to as the Severance Agreements.

*Administration.* The Severance Plan is administered by the Compensation Committee of our Board, unless the Board designates another committee or other persons to administer the Severance Plan. Subject to the terms and conditions of the Severance Plan, the administrator of the Severance Plan referred to as the Plan Administrator, has full authority necessary for the general administration and management of the Severance Plan, including full discretion to select individuals who shall be eligible to participate in the Severance Plan, to interpret, construe and apply the provisions of the Severance Plan and the Severance Agreements and to determine all questions relating to eligibility for benefits under the Severance Plan and the Severance Agreements. Subject to certain limitations upon a change in our control, the Executive Annual Plan Administrator also has authority to amend the Severance Plan, extend the term of the Severance Plan, and terminate the Severance Plan prospectively.

*Severance Benefits.* Pursuant to the Severance Plan and their Severance Agreements, Messrs. de Raad, Fishel, and Lee may be eligible to receive either basic severance benefits or change in control severance benefits, but not both, and Messrs. Allan, Coleman, and Sampath may be eligible to receive only change in control severance benefits.

*Basic Severance Benefits.* In order for Messrs. de Raad, Fishel and Lee to be eligible to receive basic severance benefits under their Severance Agreements, the following conditions must be met:

the executive must execute a general release of claims, a non-disparagement agreement, an intellectual property nondisclosure agreement, and a non-competition agreement that covers the period during which the executive is receiving severance benefits under the Severance Plan and his Severance Agreement, as well as any other documentation required by the Executive Annual Plan Administrator;

the executive must not have received any change in control severance benefits under the Severance Plan or his Severance Agreement, or any severance benefits equal to, or better than, the basic severance benefits pursuant to another arrangement between the executive and us; and

the executive must waive any and all rights, benefits and privileges to severance benefits that he might otherwise be entitled to receive under any other oral or written plan, employment agreement, or arrangement with us.



In the event Mr. de Raad, Mr. Fishel, or Mr. Lee is entitled to receive basic severance benefits under the Severance Plan and his Severance Agreement:

the executive will receive an amount equal to his annual salary determined at the highest rate in effect during the one-year period immediately prior to the date of his termination, which will be paid by us in monthly installments according to our normal payroll practices over the one-year period following his termination;

the executive and his qualifying beneficiaries will receive COBRA continuation coverage at our expense during the 12-month period following his termination; and

the executive will receive the right to purchase life insurance through us for the 12-month period following his termination. However, in the event Mr. de Raad, Mr. Fishel, or Mr. Lee commences new employment during the one-year period following his termination, any income or benefits he receives from his new employment will reduce (on a dollar-for-dollar basis) the basic severance benefits payable by us under the Severance Plan and his Severance Agreement from the date his new employment commences.

*Change in Control Severance Benefits.* In order for a Severance Plan participant to be eligible to receive change in control severance benefits under his Severance Agreement, the following conditions must be met:

for Messrs. de Raad, Fishel, and Lee, during the period commencing upon a change in control and ending on the 36-month anniversary of the change in control, the executive must have a covered termination, which means that either (i) the executive must terminate his employment with us (or our successor) for good reason within two years following the initial existence of an event or circumstance that constitutes good reason, or (ii) we (or our successor) must terminate the executive's employment without cause (a Covered Termination );

for Messrs. Allan, Coleman, and Sampath, either (i) the executive's employment terminates upon a change in control because his then-current job or a similar job is not offered to the executive on the date of the change in control, or (ii) the executive has a Covered Termination on or after a change in control for any reason other than as set forth in clause (i);

for all executives, the executive must execute a mutual release of claims, a non-disparagement agreement, an intellectual property nondisclosure agreement and a non-competition agreement that covers the period during which the executive is receiving severance benefits under the Severance Plan and his Severance Agreement, as well as any other documentation required by the Plan Administrator;

for all executives, the executive must not have received any basic severance benefits under the Severance Plan or his Severance Agreement, or any severance benefits equal to, or better than, the change in control severance benefits pursuant to an arrangement between the executive and us; and

for all executives, the executive must waive any and all rights, benefits, and privileges to severance benefits that he might otherwise be entitled to receive under any other oral or written plan, employment agreement or arrangement with us.

In the event Mr. de Raad, Mr. Fishel or Mr. Lee is entitled to receive change in control severance benefits under the Severance Plan and his Severance Agreement, the executive will receive the following:

if the executive has a Covered Termination because his job as of the date of his Severance Agreement is not offered to him on the date of the change in control, the executive will receive (i) an amount equal to his annual salary determined at the highest rate in

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effect during the one-year period immediately prior to the date of the Covered Termination, plus the executive's average annual bonus over the three-year period prior to the change in control, and (ii) the right to purchase life insurance through us for the 12-month period following his termination; or if the executive has a Covered Termination for any other

reason, the executive will receive (a) an amount equal to two times his annual salary determined at the highest rate in effect during the one-year period immediately prior to the date of the Covered Termination, plus the executive's average annual bonus over the three-year period prior to the change in control, and (b) life insurance paid by us for the 12-month period following his termination; and

the executive and his qualifying beneficiaries will receive COBRA continuation coverage at our expense during the 12-month period following his termination.

In addition, upon any change in control, 50% of Mr. de Raad's, 50% of Mr. Fishel's and 50% of Mr. Lee's unvested stock options and other equity-based awards shall be fully accelerated as of the change in control and 100% of the executive's unvested stock options and other equity-based awards shall be fully accelerated upon the executive's termination in the event he becomes entitled to the change in control severance benefits above as a result of a Covered Termination. Change in control severance amounts payable to Mr. de Raad, Mr. Fishel, and Mr. Lee will be made in a lump sum cash payment within 30 days following the date the executive has met all of the conditions for his change in control severance, provided that in no event will the cash portion of the executive's change in control severance be payable more than two and one-half months after the end of the calendar year in which the termination occurs.

In the event Mr. Allan, Mr. Coleman, or Mr. Sampath is entitled to receive change in control severance benefits under the Severance Plan and his Severance Agreement, 50% of the executive's unvested stock options and other equity-based awards shall be fully accelerated as of a change in control.

The Plan Administrator has the right to reduce any change in control severance benefits payable to an executive to avoid triggering any excess parachute payments under Section 280G of the Code. In addition, the Plan Administrator may delay the payment or issuance of any severance or change in control severance benefits for up to six months as necessary to avoid the imposition of additional tax under Section 409A of the Code.

For purposes of the Severance Plan and the Severance Agreements:

**cause** generally means: (i) the refusal or failure by the executive to perform his duties with us or to comply in all respects with our policies or the policies of any affiliate of ours after notice of a deficiency and the executive's failure to cure the deficiency within three business days following notice from us, unless the executive has delivered a bona fide notice of his termination for good reason to us, and the reason for the executive's termination has not been cured by us within 30 days of receipt of notice; (ii) the executive's engagement in illegal or unethical conduct that could be injurious to us or our affiliates; (iii) the executive's commitment of one or more acts of dishonesty; (iv) the executive's failure to follow a lawful directive from our chief executive officer; or (v) the executive's indictment of any felony, or any misdemeanor involving dishonesty or moral turpitude.

**change in control** generally means: (i) a merger or consolidation of us, or a sale of all or substantially all of our assets unless more than 50% of the voting securities of the surviving or acquiring entity are held by our stockholders as of immediately prior to the transaction; (ii) the approval by our stockholders of the sale of all or substantially all of our assets; or (iii) without the prior approval of our Board, the acquisition by any person or group of securities representing beneficial ownership of 50% or more of our outstanding voting securities.

**good reason** generally means, provided that the executive has provided us with notice of one of the following events within 15 days after it occurs, and we fail to cure the event within 30 days after receiving notice from the executive: (i) any material reduction by us in the executive's annual salary; (ii) any requirement that the executive change his principal location of work to any location that is more than 40 miles from the address of our current principal executive offices; or (iii) any material change in the executive's responsibilities.

**Voluntary Resignation.** Excluding a resignation for good reason during the period commencing upon a change in control and ending on the 36-month anniversary of the change in control, in the event a Severance Plan

participant wishes to voluntarily resign from his employment at any time during which the Severance Plan and his Severance Agreement are effective, he has agreed to provide us with six months advance notice of his resignation.

*Agreement Termination.* A Severance Plan participant's Severance Agreement will terminate upon his termination for any reason that does not constitute a termination entitling him to basic or change-in-control severance benefits, or if we terminate the Severance Plan in our role as the Severance Plan sponsor prior to the time he becomes entitled to any severance under the Severance Plan and his Severance Agreement.

**Potential Payments upon Termination or Change in Control**

The tables below estimate amounts of (i) salary and benefits payable, and (ii) the acceleration of options outstanding for each of our named executive officers, in each case assuming that a change in control, termination of employment or both occurred on December 31, 2011. The closing price of our common stock, as reported on the Nasdaq Global Select Market, was \$18.69 on December 30, 2011. The following tables assume that:

Mr. Kiani's severance benefits are derived from his employment agreement with us;

Mr. de Raad's severance benefits are derived from his severance agreement with us;

Mr. Coleman's severance benefits are derived from his severance agreement with us;

Mr. Fishel's severance benefits are derived from his severance agreement with us; and

Mr. Lee's severance benefits are derived from his severance agreement with us.

See also Employment Agreement and Offer Letters, Employee Benefit Plans and 2007 Severance Protection Plan.

**Joe Kiani**

Executive Benefits, Payments and Acceleration of Vesting of Options	Termination		by Masimo Without Cause or by Mr. Kiani for Good Reason	Change in Control
	Upon Death	Upon Disability		
Number of Option Shares Accelerated			1,200,000	1,200,000
Value of Option Shares Accelerated <sup>(1)</sup>			\$ 197,100	\$ 197,100
Additional Payments Related to Option Exercise and Tax Withholding <sup>(2)</sup>			\$ 42,689,520	\$ 42,689,520
Cash Payments	\$ 1,092,303	\$ 1,092,303	\$ 1,456,404	\$ 1,456,404
Continuation of Benefits <sup>(3)</sup>	\$ 52,164	\$ 52,164	\$ 52,164	\$ 52,164
Total Cash Benefits and Payments	\$ 1,144,467	\$ 1,144,467	\$ 44,395,188	\$ 44,395,188

<sup>(1)</sup> Includes only the value of the 60,000 accelerated in-the-money stock options held by Mr. Kiani as of December 31, 2011. Excludes 1,140,000 out-of-the-money stock options held by Mr. Kiani as of December 31, 2011.

<sup>(2)</sup>

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Constitutes the aggregate exercise price of all vested and unvested stock options, whether or not in-the-money, held by Mr. Kiani as of December 31, 2011, and Mr. Kiani's estimated aggregate tax withholding amount related to the exercise of all vested and unvested in-the-money options.

- (3) Comprised of the cash equivalent of standard employee benefits, including health and dental insurance, for 36 months, for only Mr. Kiani.

**Mark P. de Raad**

Executive Benefits, Payments and Acceleration of Vesting of Options	Termination		Change in Control
	By Masimo Without Cause <i>Outside</i> a Change in Control	By Masimo Without Cause or by Mr. de Raad for Good Reason in Connection with a Change in Control	
Number of Option Shares Accelerated		102,000	51,000
Value of Option Shares Accelerated <sup>(1)</sup>		\$	\$
Cash Payments	\$ 324,700	\$ 733,912	
Continuation of Benefits <sup>(2)</sup>	\$ 17,388 <sup>(3)</sup>	\$ 18,726 <sup>(4)</sup>	
<b>Total Cash Benefits and Payments</b>	<b>\$ 342,088</b>	<b>\$ 752,638</b>	<b>\$</b>

(1) Includes only the value of the accelerated in-the-money stock options held by Mr. de Raad as of December 31, 2011. Excludes 102,000 out-of-the-money stock options held by Mr. de Raad as of December 31, 2011.

(2) Assumes that Mr. de Raad does not commence employment with another employer during the period from January 1, 2012 through December 31, 2012.

(3) Comprised of COBRA benefits for Mr. de Raad and his beneficiaries for 12 months.

(4) Comprised of COBRA benefits for Mr. de Raad and his beneficiaries for 12 months and life insurance for Mr. de Raad for 12 months.

**Jon Coleman**

Executive Benefits, Payments and Acceleration of Vesting of Options	Termination By Masimo Without Cause or by Mr. Coleman for Good Reason in Connection with a Change in Control
Number of Option Shares Accelerated	125,000
Value of Option Shares Accelerated <sup>(1)</sup>	\$
<b>Total Acceleration of Vesting of Options</b>	<b>\$</b>

(1) Includes only the value of the accelerated in-the-money stock options held by Mr. Coleman as of December 31, 2011. Excludes 125,000 out-of-the-money stock options held by Mr. Coleman as of December 31, 2011.

**Rick Fishel**

Executive Benefits, Payments and Acceleration of Vesting of Options	Termination By Masimo Without Cause or by Mr. Fishel for Good Reason	Change in Control
	By Masimo Without Cause <i>Outside</i> a Change	

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	in Control	in Connection with a Change in Control	
Number of Option Shares Accelerated		114,000 <sup>(1)</sup>	57,000 <sup>(2)</sup>
Value of Option Shares Accelerated <sup>(3)</sup>		\$	\$
Cash Payments	\$ 325,892	\$ 736,259	
Continuation of Benefits <sup>(4)</sup>	\$ 5,568 <sup>(5)</sup>	\$ 6,906 <sup>(6)</sup>	
<b>Total Cash Benefits and Payments</b>	<b>\$ 331,460</b>	<b>\$ 743,165</b>	<b>\$</b>

- (1) Includes 3,907 option shares to be transferred to Mr. Fishel's former spouse, upon vesting, pursuant to a domestic relations order (the Domestic Relations Order).
- (2) Includes 1,954 option shares to be transferred to Mr. Fishel's former spouse, upon vesting, pursuant to the Domestic Relations Order.
- (3) Includes only the value of the accelerated in-the-money stock options held by Mr. Fishel as of December 31, 2011. Excludes 114,000 out-of-the-money stock options held by Mr. Fishel as of December 31, 2011.
- (4) Assumes that Mr. Fishel does not commence employment with another employer during the period from January 1, 2012 through December 31, 2012.
- (5) Comprised of COBRA benefits for Mr. Fishel for 12 months.
- (6) Comprised of COBRA benefits for Mr. Fishel for 12 months and life insurance for Mr. Fishel for 12 months.

**Yongsam Lee**

	Termination		Change in Control
	By Masimo Without Cause Outside a Change in Control	By Masimo Without Cause or by Mr. Lee for Good Reason in Connection with a Change in Control	
<b>Executive Benefits, Payments and Acceleration of Vesting of Options</b>			
Number of Option Shares Accelerated		114,000	57,000
Value of Option Shares Accelerated <sup>(1)</sup>		\$	\$
Cash Payments	\$ 319,654	\$ 720,592	
Continuation of Benefits <sup>(2)</sup>	\$ 17,388 <sup>(3)</sup>	\$ 18,726 <sup>(4)</sup>	
<b>Total Cash Benefits and Payments</b>	<b>\$ 337,042</b>	<b>\$ 739,318</b>	<b>\$</b>

- (1) Includes only the value of the accelerated in-the-money stock options held by Mr. Lee as of December 31, 2011. Excludes 114,000 out-of-the-money stock options held by Mr. Lee as of December 31, 2011.
- (2) Assumes that Mr. Lee does not commence employment with another employer during the period from January 1, 2012 through December 31, 2012.
- (3) Comprised of COBRA benefits for Mr. Lee and his beneficiaries for 12 months.
- (4) Comprised of COBRA benefits for Mr. Lee and his beneficiaries for 12 months and life insurance for Mr. Lee for 12 months.

**Masimo Retirement Savings Plan**

We maintain a retirement savings plan, referred to as the Savings Plan, which is intended to be a tax-qualified retirement plan. All of our employees age 18 and older are eligible to participate in the Savings Plan. Participants may elect to defer a percentage of their eligible pretax earnings each year up to the maximum contribution permitted by the Code. Each participant's interests in his or her deferrals are 100% vested when contributed. The Savings Plan permits us to make matching contributions if we choose and we have historically provided matching contributions of up to three percent, subject to a maximum amount. In the event the employee is employed with us for less than two years, we do not provide a matching contribution. In the event the employee is employed with us for two or more years, but less than three years, we provide a matching contribution at a 50% level. In the event the employee is employed with us for three or more years, but less than four years, we provide a matching contribution at a 75% level. In the event the employee is employed with us for four or more years, we provide a matching contribution at a 100% level. Effective February 15, 2008, participants in our Savings Plan were eligible to direct some or all of their contributions, as well as our matching contributions, to the purchase of shares of our common stock through the plan. The Savings Plan is intended to qualify under Sections 401(a) and 501(a) of the Code. As such, contributions to the Savings Plan and earnings on those contributions are not taxable to participants until distributed from the Savings Plan, and all contributions are deductible by us when made.



**Non-Employee Director Compensation**

We have adopted a non-employee director compensation policy, which was most recently amended effective December 15, 2008. Under this policy, our Audit Committee chairperson receives an annual cash retainer of \$40,000, payable on a quarterly basis in arrears. Except as otherwise provided by our Board or compensation committee, no other non-employee director is entitled to receive any cash compensation for his service on our Board or any committee thereof. However, our non-employee directors are entitled to reimbursement for their reasonable expenses incurred in connection with attending meetings of our Board and committees thereof and performing their functions and duties as directors.

Our Board has adopted the following policy with respect to granting stock options to non-employee directors. Our Audit Committee chairperson received a stock option grant for 150,000 shares of common stock, which vests at a rate of 20% per year. Upon first becoming a member of our Board of Directors, unless otherwise determined by our Compensation Committee, each non-employee director other than our Audit Committee chairperson receives an option to purchase 50,000 to 100,000 shares of our common stock that vests at a rate of 20% per year on each anniversary of the grant date. Our Compensation Committee will determine the size of the award to be made. Upon the vesting of 60% of the initial option award to our Audit Committee chairperson and other outside directors, our Compensation Committee will provide our Audit Committee chairperson or other outside director, as applicable, an additional annual option grant to purchase 20,000 shares that vest at a rate of 20% per year on each anniversary of the grant date. Through March 15, 2012, we granted to our current non-employee directors options to purchase an aggregate of 1,615,000 shares of common stock under our 1996 Plan, 2004 Plan and 2007 Plan. In the year ended December 31, 2011, we granted to our non-employee directors options to purchase an aggregate of 180,000 shares of our common stock under our 2007 Plan. All awards made to our non-employee directors in the future will be made under our 2007 Plan or a successor plan. For a more detailed description of this plan, see Compensation of Executive Officers Employee Benefit Plans 2007 Stock Incentive Plan. We did not grant any type of equity award other than stock options to our non-employee directors during the year ended December 31, 2011. Our Audit Committee chairperson was the only non-employee director who received cash compensation for his Board and committee service in fiscal 2011.

The following table sets forth summary information concerning compensation paid or accrued for services rendered to us in all capacities to the members of our Board of Directors for the fiscal year ended December 31, 2011.

Name <sup>(1)(2)</sup>	Fees Earned or Paid in Cash	Option Awards <sup>(3)</sup>	All Other Compensation	Total
Steven J. Barker, M.D., Ph.D.		\$ 397,812		\$ 397,812
Edward L. Cahill		397,812		397,812
Robert Coleman, Ph.D.		397,812		397,812
Sanford Fitch	\$ 40,000 <sup>(4)</sup>	164,438		204,438
Jack Lasersohn		397,812		397,812

<sup>(1)</sup> Joe Kiani, our Chairman and Chief Executive Officer and a named executive officer, is not included in this table as he is an employee of ours and therefore receives no compensation for his service as a director. Mr. Kiani's compensation is included in the Summary Compensation Table above.

<sup>(2)</sup> As of December 31, 2011, each of our non-employee directors held the following number of options: Steven J. Barker, M.D., Ph.D. 200,000; Edward L. Cahill 80,000; Robert Coleman, Ph.D. 199,400; Sanford Fitch 130,000; and Jack Lasersohn 110,000.

<sup>(3)</sup> These amounts represent the aggregate grant date fair value of awards for grants of options to each listed director in fiscal 2011, computed in accordance with authoritative accounting guidance. These amounts do not represent the actual amounts paid to or realized by the directors during fiscal 2011. The value as of the grant date for stock options is recognized over the number of days of service required for the stock option to vest in full. For a detailed description of the assumptions used for purposes of determining grant date fair value, see Note 11 to the Financial Statements and Management's Discussion and Analysis of Financial

Condition and Results of Operations Critical Accounting Estimates Share-Based Payment, included in our Annual Report on Form 10-K for the year ended December 31, 2011.

(4) Consists of an annual retainer paid to our Audit Committee chairperson pursuant to our non-employee director compensation policy.

**Securities Authorized for Issuance Under Equity Compensation Plans**

The following table sets forth additional information as of December 31, 2011 with respect to the shares of common stock that may be issued upon the exercise of options and other rights under our existing equity compensation plans and arrangements in effect as of December 31, 2011. The information includes the number of shares covered by, and the weighted average exercise price of, outstanding options and the number of shares remaining available for future grant, excluding the shares to be issued upon exercise of outstanding options.

**Equity Compensation Plan Information**

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders <sup>(1)</sup>	8,277,340	\$ 22.68	3,492,933 <sup>(2)</sup>
Equity compensation plans not approved by security holders <sup>(3)</sup>			
<b>Total</b>	<b>8,277,340</b>	<b>\$ 22.68</b>	<b>3,492,933</b>

(1) Comprised of the 1996 Plan, 2004 Plan and 2007 Plan.

(2) Comprised solely of shares subject to awards available for future issuance under the 2007 Plan. Pursuant to the terms of the 2007 Plan, the share reserve of the 2007 Plan will automatically increase on the first day of each fiscal year, through fiscal 2017, by three percent of the aggregate number of shares of our common stock outstanding as of the last day of the immediately preceding fiscal year, or such lesser amount, including zero, determined by our Board of Directors or our Compensation Committee prior to the commencement of the fiscal year.

(3) As of December 31, 2011, we did not have any equity compensation plans that were not approved by our stockholders.

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**SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

The following table sets forth information as of March 15, 2012, with respect to the beneficial ownership of shares of our common stock by:

each person or group known to us to be the beneficial owner of more than five percent of our common stock;

each of our directors;

each of our named executive officers; and

all of our current directors and executive officers as a group.

This table is based upon information supplied by officers, directors and principal stockholders and a review of Schedules 13D and 13G, if any, filed with the SEC. Other than as set forth below, we are not aware of any other beneficial owner of more than five percent of our common stock as of March 15, 2012. Except as indicated by the footnotes below, we believe, based on the information furnished to us, that the persons and entities named in the table below have sole voting and investment power with respect to all shares of common stock that they beneficially own, subject to applicable community property laws.

Applicable percentage ownership is based on 58,190,116 shares of common stock outstanding as of March 15, 2012, adjusted as required by rules promulgated by the SEC. These rules generally attribute beneficial ownership of securities to persons who possess sole or shared voting power or investment power with respect to those securities. In addition, the rules include shares of common stock issuable pursuant to the exercise of stock options that are either immediately exercisable or exercisable on or before May 14, 2012, which is 60 days after March 15, 2012. These shares are deemed to be outstanding and beneficially owned by the person holding those options for the purpose of computing the percentage ownership of that person, but they are not treated as outstanding for the purpose of computing the percentage ownership of any other person.

Unless otherwise noted below, the address of each beneficial owner listed in the table is c/o Masimo Corporation, 40 Parker, Irvine, California 92618.

Name of Beneficial Owner	Beneficial Ownership of Common Stock	
	Number of Shares	Percent of Class <sup>(1)</sup>
<i>Named Executive Officers and Directors:</i>		
Joe Kiani <sup>(2)</sup>	5,749,655	9.8%
Mark P. de Raad <sup>(3)</sup>	248,538	*
Jon Coleman <sup>(4)</sup>	85,345	*
Rick Fishel <sup>(5)</sup>	169,317	*
Yongsam Lee <sup>(6)</sup>	271,000	*
Steven J. Barker, M.D., Ph.D. <sup>(7)</sup>	164,000	*
Edward L. Cahill <sup>(8)</sup>	59,000	*
Robert Coleman, Ph.D. <sup>(9)</sup>	275,600	*
Sanford Fitch <sup>(10)</sup>	130,000	*
Jack Lasersohn <sup>(11)</sup>	54,000	*
Total Shares Held By Current Executive Officers and Directors (12 persons) <sup>(12)</sup>	7,352,979	12.6
<i>5% Stockholders:</i>		
Joe Kiani <sup>(2)</sup>	5,749,655	9.8
BlackRock, Inc. <sup>(13)</sup>	4,130,330	7.1
Janus Capital Management LLC <sup>(14)</sup>	4,931,343	8.5

\* Less than one percent.

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- (1) For each person and group included in this table, percentage ownership is calculated by dividing the number of shares beneficially owned by such person or group by the sum of 58,190,116 shares of common stock outstanding as of March 15, 2012, plus the number of shares of common stock that such person or group had the right to acquire within 60 days after March 15, 2012.
- (2) Comprised of 798,241 shares held directly, 4,212,500 shares held in three trusts for which Mr. Kiani is the sole trustee, 9,000 shares held by an immediate family member of Mr. Kiani, 9,914 shares held for Mr. Kiani's account under our Retirement Savings Plan and options to purchase 720,000 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (3) Comprised of 2,538 shares held for Mr. de Raad's account under our Retirement Savings Plan and options to purchase 246,000 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (4) Comprised of 345 shares of common stock held for Mr. Coleman's account under our Retirement Savings Plan and options to purchase 85,000 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (5) Comprised of 15,000 shares of common stock held directly and options to purchase 154,317 shares of common stock that are exercisable within 60 days of March 15, 2012. Pursuant to a domestic relations order, Mr. Fishel is required to transfer stock options to purchase up to an aggregate of 1,955 shares of common stock to his former spouse upon the vesting of such options (the Additional Options). Accordingly, Mr. Fishel disclaims any beneficial ownership of the Additional Options.
- (6) Comprised of 58,000 shares of common stock held directly and options to purchase 213,000 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (7) Comprised of 20,000 shares of common stock held directly and options to purchase 144,000 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (8) Comprised of 35,000 shares of common stock held directly and options to purchase 24,000 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (9) Comprised of 132,200 shares of common stock held directly and options to purchase 143,400 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (10) Comprised of 20,000 shares of common stock held directly and options to purchase 110,000 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (11) Comprised of options to purchase 54,000 shares of common stock that are exercisable within 60 days of March 15, 2012.
- (12) Comprised of shares included under Named Executive Officers and Directors, 10,524 shares held by one of our other executive officers and options to purchase an aggregate of 136,000 shares of common stock held by one of our other executive officers that are exercisable within 60 days of March 15, 2012.
- (13) BlackRock, Inc. (BlackRock) filed a Schedule 13G/A on February 13, 2012, reporting that it had sole voting and dispositive power with respect to an aggregate of 4,130,330 shares in its capacity as a parent holding company or control person in accordance with Rule 13d-1(b)(1)(ii)(G) under the Exchange Act. BlackRock's address is 40 East 52nd Street, New York, New York 10022.
- (14) Janus Capital Management LLC (Janus) filed a Schedule 13G on February 14, 2012, reporting that it had sole voting and dispositive power with respect to an aggregate of 4,931,343 shares in its capacity as an investment adviser in accordance with Rule 13d-1(b)(1)(ii)(G) under the Exchange Act and as a parent holding company or control person in accordance with Rule 13d-1(b)(1)(ii)(G) under the Exchange Act. Janus' address is 151 Detroit Street, Denver, Colorado 80206.

**PROPOSAL NO. 2**

**RATIFICATION OF SELECTION OF INDEPENDENT AUDITORS**

The Audit Committee of our Board of Directors has selected Grant Thornton LLP ( Grant Thornton ) as our independent auditors for the fiscal year ending December 29, 2012, and has further directed that management submit the selection of independent auditors for ratification by the stockholders at the Annual Meeting.

Grant Thornton was appointed as our independent auditors in July 2006 and has reported on our consolidated financial statements as of and for the years ended December 31, 2005, December 31, 2006, December 29, 2007, January 3, 2009, January 2, 2010, January 1, 2011 and December 31, 2011. The decision to select Grant Thornton as our independent auditors for the fiscal year ending December 29, 2012 was recommended by our Audit Committee and approved by our Board of Directors.

Representatives of Grant Thornton are expected to be present at the Annual Meeting. The representatives of Grant Thornton will be able to make a statement at the meeting if they wish and will be available to respond to appropriate questions.

Neither our bylaws nor other governing documents or law require that our stockholders ratify the selection of Grant Thornton as our independent auditors. However, the Audit Committee is submitting the selection of Grant Thornton to the stockholders for ratification as a matter of good corporate practice. If our stockholders fail to ratify the selection, the Audit Committee will reconsider whether or not to retain that firm. Even if the selection is ratified, the Audit Committee in its discretion may direct the appointment of different independent auditors at any time during the year if it determines that such a change would be in the best interests of Masimo and our stockholders.

Although our stockholders are not required to ratify the selection of Grant Thornton as our independent auditors, because we have submitted the ratification of our auditors for approval by stockholders, the affirmative vote of the holders of a majority of the shares present in person or represented by proxy and voting at the Annual Meeting (which shares voting affirmatively also constitute at least a majority of the required quorum) will be required to ratify the selection of Grant Thornton as our independent auditors for the fiscal year ending December 29, 2012.

**Principal Accountant Fees and Services**

The following table represents aggregate fees billed to Masimo for the fiscal years ended December 31, 2011 and January 1, 2011 by Grant Thornton, our principal auditors for such periods. All fees described below were approved by the Audit Committee.

	Fiscal Year Ended	
	December 31, 2011	January 1, 2011
Audit Fees <sup>(1)</sup>	\$ 1,237,362	\$ 1,424,875
Audit-Related Fees <sup>(2)</sup>	62,142	
Tax Fees <sup>(3)</sup>	152,868	136,728
All Other Fees		
<b>Total Fees</b>	<b>\$ 1,452,372</b>	<b>\$ 1,561,603</b>

- (1) Audit fees consist of fees billed for services rendered for the audit of our consolidated annual financial statements, including performance of the attestation procedures required by Section 404 of the Sarbanes-Oxley Act of 2002, review of the interim consolidated financial statements included in quarterly reports and services that are normally provided by Grant Thornton in connection with statutory and regulatory filings or engagements. For the fiscal year ended January 1, 2011, audit fees also consist of fees for services associated with SEC registration statements, including our shelf registration statement on Form S-3, as well as fees for services associated with our registration statements on Form S-8 in connection with our stock incentive plan and retirement savings plan, and other documents filed with the SEC.
- (2) Audit-related fees consist of fees for assurance and related services that are traditionally performed by the independent accountant and include fees reasonably related to the performance of the audit or review of our interim consolidated financial statements and not reported under the caption Audit Fees. For the fiscal year ended December 31, 2011, these services included fees for the audit of our retirement savings plan and consultation services related to the impact of future accounting pronouncements on our consolidated financial statements.
- (3) Tax fees consist of fees for preparation of our federal and state income tax returns, general consultation and international tax research.

**Audit Committee's Pre-Approval Policies and Procedures**

The Audit Committee has adopted a policy for the pre-approval of audit and non-audit services rendered by our independent auditors, Grant Thornton. The policy generally pre-approves specified services in the defined categories of audit services, audit-related services and tax services up to specified amounts. Pre-approval may also be given as part of the Audit Committee's approval of the scope of the engagement of the independent auditors or on an individual explicit case-by-case basis before the independent auditors are engaged to provide each service. The pre-approval of services may be delegated to one or more of the Audit Committee's members, but the decision must be reported to the full Audit Committee at its next scheduled meeting. By the adoption of this policy, the Audit Committee has delegated the authority to pre-approve services to the Chairperson of the Audit Committee, subject to certain limitations.

The Audit Committee has determined that the rendering of the services other than audit services by Grant Thornton is compatible with maintaining the principal accountant's independence.

**THE BOARD OF DIRECTORS RECOMMENDS**

**A VOTE FOR THE RATIFICATION OF THE SELECTION OF GRANT THORNTON LLP AS OUR  
INDEPENDENT AUDITORS FOR OUR FISCAL YEAR ENDING DECEMBER 29, 2012.**

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**PROPOSAL NO. 3**

**ADVISORY VOTE TO APPROVE THE COMPENSATION OF OUR NAMED EXECUTIVE**

**OFFICERS**

In accordance with Section 951 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), we are providing our stockholders the opportunity to vote on a non-binding, advisory resolution to approve the compensation of our named executive officers, which is described in this Proxy Statement in the section titled "Compensation Discussion and Analysis" beginning on page 24, and the compensation tables beginning on page 37, and any related narrative discussion contained in this Proxy Statement.

The Company's executive compensation program is designed to attract, retain and motivate the best possible executive talent. The focus is to tie short and long-term cash and equity incentives to the achievement of measurable corporate objectives and to align executives' incentives with stockholder value creation. To achieve these objectives, the Compensation Committee has adopted a compensation approach that ties a substantial portion of executives' overall compensation to our operational performance.

In fiscal 2011, although significant components of the Company's end user marketplace were still struggling to recover from the economic recession in 2008 and 2009, the Company was able to achieve a number of remarkable milestones, including that we:

increased our total revenue, including royalties, from fiscal 2010 by 8% to \$439.0 million;

increased our product revenue from fiscal 2010 by 14% to \$406.5 million;

increased our rainbow<sup>®</sup> revenue, which rose from fiscal 2010 by 4% to \$34.1 million;

shipped 148,200 Masimo SET<sup>®</sup> and Masimo rainbow<sup>®</sup> SET units, increasing our worldwide installed base by 15% over fiscal 2010;

introduced In Vivo Adjustment<sup>™</sup> (pending FDA 510(k) clearance in the U.S.) to the 2011 Radical-7<sup>™</sup> that enables clinicians, for the first time, to adjust the noninvasive measurements of SpO<sub>2</sub>, SpHb<sup>®</sup>, SpCO<sup>®</sup> and SpMet<sup>®</sup> to the specific patient and laboratory reference device they use for invasive blood testing; and

achieved a variety of other non-financial targets, including product quality, customer satisfaction and total shipments of boards/monitors and adhesive disposable sensors.

As a result of these achievements, the Compensation Committee believes that the compensation plans and objectives are appropriately incentivizing the members of the executive management team and that the plans in place will be sufficient to continue to incentivize the entire management team going forward.

Stockholders are urged to read the Compensation Discussion and Analysis section of this Proxy Statement, which more thoroughly discusses how our compensation policies and procedures implement our compensation philosophy. The Compensation Committee and the Board believe that these policies and procedures are effective in implementing our compensation philosophy and in achieving its goals.

In light of the above, we believe that the compensation of our named executive officers for fiscal 2011 was appropriate and reasonable, and that our compensation policies and procedures are sound and in our best interests and in the best interests of our stockholders.

Accordingly, the following resolution will be submitted for a stockholder vote at the Annual Meeting:

RESOLVED, that the stockholders of Masimo Corporation approve, on an advisory basis, our named executive officer compensation, as disclosed pursuant to Item 402 of Regulation S-K, including the Compensation Discussion and Analysis, compensation tables and narrative discussion, in this Proxy Statement.





While this stockholder vote on executive compensation is merely advisory and will not be binding upon us or the Board or our Compensation Committee, we value the opinions of our stockholders and will consider the outcome of the vote when making future compensation decisions.

**THE BOARD OF DIRECTORS RECOMMENDS**

**A VOTE TO APPROVE THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS AS**

**DESCRIBED IN THIS PROXY STATEMENT**

## SECTION 16(A) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Exchange Act requires our directors and executive officers, and persons who beneficially own more than ten percent of a registered class of our equity securities, to file with the SEC initial reports of ownership and reports of changes of ownership of common stock and our other equity securities. Officers, directors and greater than ten percent stockholders are required by SEC regulation to furnish us with copies of all Section 16(a) forms they file.

To our knowledge, based solely on a review of the copies of such reports furnished to us and written representations that no other reports were required, during the fiscal year ended December 31, 2011, our officers, directors and greater than ten percent beneficial owners complied with all Section 16(a) filing requirements applicable to them.

## TRANSACTIONS WITH RELATED PERSONS, PROMOTERS AND CERTAIN CONTROL PERSONS

### Related Person Transactions Policy and Procedures

In March 2008, we adopted a written Related Person Transactions Policy that sets forth our policies and procedures regarding the identification, review, consideration and approval or ratification of transactions with related persons. For purposes of our policy only, a related person transaction is a transaction, arrangement or relationship (or any series of similar transactions, arrangements or relationships) in which we (including any of our subsidiaries) and any related person were, are or will be participants involving an amount that exceeds \$120,000. For purposes of the policy, a related person is:

any person who is or was a director or executive of ours since the beginning of our immediately preceding fiscal year or an immediate family member of, or person sharing a household with, any of the foregoing individuals;

any person known by us to be the beneficial owner of more than five percent of the outstanding voting securities or, if the beneficial owner is an individual, an immediate family member of, or person sharing a household with, any of the foregoing individuals; and

any firm, corporation or other entity in which any of the foregoing individuals is employed or is a general partner or principal or in a similar position, or in which any of the foregoing individuals has a five percent or greater beneficial interest.

Under the policy, prior to entering into a related person transaction, our legal department must present information regarding the proposed related person transaction to our Nominating and Corporate Governance Committee for approval at its next regularly scheduled meeting (or, where our legal department, in consultation with our Chief Executive Officer or Chief Financial Officer, determines that it is not practicable to or desirable to wait until the next meeting of the Nominating and Corporate Governance Committee, to the Chairperson of our Nominating and Corporate Governance Committee, who is authorized under the policy to act on behalf of the Nominating and Corporate Governance Committee with respect to matters covered by the policy between meetings of the Nominating and Corporate Governance Committee). The presentation must include:

a description of the related person's relationship to us and interest in the related person transaction;

the material terms of the proposed related person transaction;

the perceived benefits to us of the proposed related person transaction;

if applicable, the availability to us of other sources for comparable products or services subject to the proposed related person transaction; and

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an assessment of whether the proposed related person transaction is on terms that are comparable to the terms available to or from, as applicable, a third party that is not a related person or to our employees generally.

To identify proposed related person transactions in advance, our legal department relies on information supplied by our directors, executive officers or our business unit or function/department leader responsible for the proposed related person transaction. In considering related person transactions, the Nominating and Corporate Governance Committee takes into account all relevant facts and circumstances related to the proposed transaction including, but not limited to the information discussed above and, in the event the related person is a director or an immediate family member or affiliate of a director, the impact of the proposed related person transaction on the director's independence. In the event a member of the Nominating and Corporate Governance Committee, or any immediate family member or affiliate of a member of the Nominating and Corporate Governance Committee is the related person, the Nominating and Corporate Governance Committee person is prohibiting from participating in any review, consideration or approval of the related person transaction. The policy requires that the Nominating and Corporate Governance Committee shall only approve a related person transaction if it determines in good faith that the transaction is in, or is not inconsistent with, our best interests and the best interests of our stockholders.

Under the policy, the following related person transactions are deemed to be pre-approved by the Nominating and Corporate Governance Committee regardless of the amount involved:

employment and compensation of our executive officers, subject to certain exceptions;

compensation of our directors, subject to certain exceptions;

certain transactions between us and an unrelated third party entity in which the related person's only relationship with the third party is as an employee (other than an executive officer), director or beneficial owner of less than 10% of the other entity's shares, subject to certain limitations;

certain charitable contributions; and

transactions in which all of our security holders receive the same benefit on a pro rata basis.

The policy also permits our Nominating and Corporate Governance Committee to ratify, amend, rescind or terminate any related person transaction that is not pre-approved in accordance with the terms above.

### **Transactions with Related Persons**

The following is a description of transactions or series of transactions since January 2, 2011, or any currently proposed transaction, to which we were or are to be a participant in which the amount involved in the transaction or series of transactions exceeds \$120,000, and in which any of our directors, executive officers or persons who we know held more than five percent of any class of our capital stock, including their immediate family members, had or will have a direct or indirect material interest, other than compensation arrangements that are described under *Employment Agreement and Offer Letters* above.

#### ***Amended and Restated Employment Agreement with Joe Kiani***

On February 7, 2012, we amended and restated our employment agreement with Mr. Kiani, our Chairman and Chief Executive Officer. See the section entitled *Executive Compensation Employment Agreement with Joe Kiani* above.

#### ***Stock Option Grants***

We have granted stock options to our directors and executive officers. For a description of the options granted in 2011, see the sections entitled *Compensation of Executive Officers Grants of Plan-Based Awards During Fiscal Year 2011*, *Compensation of Executive Officers Outstanding Equity Awards at December 31, 2011* and *Compensation of Executive Officers Non-Employee Director Compensation* above.

On February 22, 2011, we granted the following options to our executive officers and directors:

<b>Name</b>	<b>Number of Securities Underlying Options (#)</b>
Joe Kiani	300,000
Mark P. de Raad	30,000
Jon Coleman	25,000
Rick Fishel	30,000
Yongsam Lee	30,000
Anand Sampath	30,000
Steven J. Barker, M.D., Ph.D.	20,000
Edward L. Cahill	20,000
Robert Coleman, Ph.D.	20,000
Jack Lasersohn	20,000

Each option was granted at an exercise price of \$30.06, the closing price of our common stock, as reported on Nasdaq, on the date of grant.

On October 27, 2011, we granted the following options to our executive officers and directors:

<b>Name</b>	<b>Number of Securities Underlying Options (#)</b>
Joe Kiani	300,000
Anthony Allan	30,000
Mark P. de Raad	30,000
Jon Coleman	30,000
Rick Fishel	30,000
Yongsam Lee	30,000
Anand Sampath	30,000
Steven J. Barker, M.D., Ph.D.	20,000
Edward L. Cahill	20,000
Robert Coleman, Ph.D.	20,000
Jack Lasersohn	20,000

Each option was granted at an exercise price of \$20.19, the closing price of our common stock, as reported on Nasdaq, on the date of grant.

#### ***Cercacor Laboratories, Inc.***

Cercacor Laboratories, Inc. ( Cercacor ) is an independent entity spun off from us to our stockholders in 1998. Joe Kiani and Jack Lasersohn, members of our Board, are also members of the board of directors of Cercacor. Joe Kiani, our Chairman and Chief Executive Officer, is also the Chairman and Chief Executive Officer of Cercacor. We are a party to a cross-licensing agreement with Cercacor, which was amended and restated effective January 1, 2007 (the Cross-Licensing Agreement ), that governs each party's rights to certain of the intellectual property held by the two companies. Pursuant to the Cross-Licensing Agreement, from January 2, 2011 through February 25, 2012, we paid Cercacor \$5.8 in royalty payments. In addition, to accelerate the product development of Masimo's total hemoglobin spot check measurement device, in February 2009, Masimo agreed to fund additional Cercacor engineering expenses. Specifically, these expenses included third party engineering materials and supplies expense as well as 50% of total Cercacor engineering and engineering related payroll expenses from April 2009 until completion of the product development efforts. These expenses totaled \$2.9 million from January 2, 2011 through February 25, 2012.

Prior to our initial public offering in August 2007, our stockholders owned approximately 99.9% of the outstanding capital stock of Cercacor, and we believe that as of March 15, 2012, a number of stockholders of Cercacor continued to own shares of our common stock.

***Indemnification Agreements with Directors and Executive Officers***

We have entered into indemnity agreements with our directors and executive officers under which we agreed to indemnify those individuals under the circumstances and to the extent provided for in the agreements, for expenses, damages, judgments, fines, settlements and any other amounts they may be required to pay in actions, suits or proceedings which they are or may be made a party or threatened to be made a party by reason of their position as a director, officer or other agent of ours, and otherwise to the fullest extent permitted under Delaware law and our bylaws. We also have an insurance policy covering our directors and executive officers with respect to certain liabilities, including liabilities arising under the Securities Act of 1933, as amended, or otherwise. We believe that these provisions and insurance coverage are necessary to attract and retain qualified directors, officers and other key employees.

***Registration Rights***

Pursuant to our Fifth Amended and Restated Registration Rights Agreement dated September 14, 1999, certain stockholders affiliated with two of our directors, Messrs. Cahill and Lasersohn, have the right in specified circumstances to require us to register their shares under the Securities Act of 1933, as amended, for resale to the public. Generally, we are required to bear all registration and selling expenses incurred in connection with any registration required by these stockholders, other than underwriting discounts and commissions. We are also required to bear the reasonable fees and expenses of one counsel for the selling stockholders in each registration.

**HOUSEHOLDING**

A copy of our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, which is our 2011 annual report, is being mailed to you along with this Proxy Statement. We are sending only one annual report and proxy statement to street name stockholders who share a single address unless we received contrary instructions from any stockholder at that address. This practice, known as householding, is designed to reduce our printing and postage costs. However, if you are residing at such an address and wish to receive a separate annual report or proxy statement in the future, you may request them by calling our Corporate Secretary at (949) 297-7000, or by submitting a request in writing to our Corporate Secretary, c/o Masimo Corporation, 40 Parker, Irvine, California 92618, and we will promptly deliver a separate annual report and proxy statement to you. If you are receiving multiple copies of our annual report and proxy statement, you can request householding by contacting the Corporate Secretary in the same manner described above.

**ANNUAL REPORT ON FORM 10-K**

A copy of our Annual Report on Form 10-K for the fiscal year ended December 31, 2011 filed with the SEC is available without charge upon written request to Corporate Secretary, c/o Masimo Corporation, 40 Parker, Irvine, California 92618.

**IMPORTANT NOTICE REGARDING AVAILABILITY OF PROXY MATERIALS FOR THE STOCKHOLDER MEETING TO BE HELD ON JUNE 7, 2012:**

**The Proxy Statement, the Masimo Corporation Annual Report on Form 10-K for the fiscal year ended**

**December 31, 2011 and the Proxy Card are available at [www.proxyvote.com](http://www.proxyvote.com).**

**OTHER MATTERS**

The Board of Directors knows of no other matters that will be presented for consideration at the Annual Meeting. If any other matters are properly brought before the Annual Meeting, it is the intention of the persons named in the accompanying proxy to vote on such matters in accordance with their best judgment.

**By Order of the Board of Directors**

Joe Kiani

*Chairman & Chief Executive Officer*

April 27, 2012

**You are cordially invited to attend the annual meeting in person. Whether or not you expect to attend the meeting, please complete, date, sign and return the enclosed proxy or submit your proxy through the Internet or by telephone as promptly as possible in order to ensure your representation at the meeting. A return envelope (which is postage prepaid if mailed in the United States) is enclosed for your convenience if you wish to submit your proxy by mail. Even if you have voted by proxy, you may still vote in person if you attend the meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the meeting, you must obtain a proxy issued in your name from that record holder.**



**Directions to the Annual Meeting of Stockholders of Masimo Corporation**

**Masimo Corporation**

**40 Parker**

**Irvine, California 92618**

**(949) 297-7000**

From the **North** (Los Angeles/Long Beach/John Wayne Airport)

Take 405 Fwy South. Exit Bake Parkway

Turn Left on BAKE PKWY go 2.84 miles

Turn Left on IRVINE BLVD/TRABUCO RD go 0.20 miles

Turn Right on PARKER go 0.10 miles

Arrive at 40 PARKER, IRVINE, on the Left

From the **South** (San Diego and points South of Irvine)

Take 5 Fwy North. Exit Bake Parkway

Turn Right on BAKE PKWY go 2.84 miles

Turn Left on IRVINE BLVD/TRABUCO RD go 0.20 miles

Turn Right on PARKER go 0.10 miles

Arrive at 40 PARKER, IRVINE, on the Left

From the **East** (Riverside County)

Take the 91 Fwy West or the 55 Fwy South

Take 5 Fwy South. Exit Bake Parkway

Turn Left on BAKE PKWY go 2.84 miles

Turn Left on IRVINE BLVD/TRABUCO RD go 0.20 miles

Turn Right on PARKER go 0.10 miles

Arrive at 40 PARKER, IRVINE, on the Left

**Electronic Voting Instructions**

**Available 24 hours a day, 7 days a week!**

Instead of mailing your proxy, you may choose one of the voting methods outlined below to vote your proxy.

VALIDATION DETAILS ARE LOCATED BELOW IN THE TITLE BAR.

**Proxies submitted by the Internet or telephone must be received by 1:00 a.m., Central Time, on June 7, 2012.**

**Vote by Internet**

Go to [www.investorvote.com/MASI](http://www.investorvote.com/MASI)

Or scan the QR code with your smartphone

Follow the steps outlined on the secure website

**Vote by telephone**

Call toll free 1-800-652-VOTE (8683) within the USA, US territories & Canada on a touch tone telephone. There is **NO CHARGE** to you for the call.

Follow the instructions provided by the recorded message

Using a **black ink** pen, mark your votes with an **X** as shown in

this example. Please do not write outside the designated areas.

**X**

q **IF YOU HAVE NOT VOTED VIA THE INTERNET OR TELEPHONE, FOLD ALONG THE PERFORATION, DETACH AND RETURN THE BOTTOM PORTION IN THE ENCLOSED ENVELOPE.** q

**THIS PROXY WILL BE VOTED IN ACCORDANCE WITH THE SPECIFICATIONS MADE. IF NO SPECIFICATIONS ARE MADE, THIS PROXY WILL BE VOTED FOR THE ELECTION OF THE NOMINEES FOR DIRECTOR IN PROPOSAL NO. 1, FOR THE APPROVAL OF PROPOSAL NO. 2 AND FOR THE APPROVAL OF PROPOSAL NO. 3.**

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PLEASE MARK, SIGN, DATE AND MAIL THIS PROXY CARD PROMPTLY, USING THE ENCLOSED ENVELOPE WHICH IS POSTAGE PREPAID IF MAILED IN THE UNITED STATES.

**A** Proposals

The Board of Directors recommends a vote FOR each of the following proposals:

1. Election of Class II Directors:	For	Against	Abstain
01 - Mr. Edward L. Cahill	..	..	..
02 - Dr. Robert Coleman	..	..	..
2. To ratify the selection of Grant Thornton LLP as the Company's independent auditors for fiscal year 2012.	..	..	..
3. Advisory vote to approve named executive officer compensation.	..	..	..

**NOTE:** In their discretion, the proxies are authorized to vote upon such other business as may properly come before the meeting.

This proxy is governed by the laws of the State of Delaware.

**B** Authorized Signatures This section must be completed for your vote to be counted. Date and Sign Below

Please sign exactly as your name or names appear hereon. When signing as attorney-in-fact, executor, administrator, trustee or guardian, please give full title as such. If shares are held jointly, each holder must sign. If signer is a corporation, please give full corporate name and have a duly authorized officer sign, stating title. If signer is a partnership, please sign in partnership name by authorized person.

Date (mm/dd/yyyy) Please print date below.

/ /

Signature 1 Please keep signature within the box.

Signature 2 Please keep signature within the box.

01GPJD

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You can view the Annual Report and Proxy Statement

on the Internet at [www.masimo.com](http://www.masimo.com)

q IF YOU HAVE NOT VOTED VIA THE INTERNET OR TELEPHONE, FOLD ALONG THE PERFORATION, DETACH AND RETURN THE BOTTOM PORTION IN THE ENCLOSED ENVELOPE. q

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Proxy MASIMO CORPORATION

ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON JUNE 7, 2012

MASIMO CORPORATION

40 PARKER, IRVINE, CALIFORNIA 92618

THIS PROXY IS BEING SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS.

The undersigned hereby appoints Joe Kiani and Mark P. de Raad, and each of them, with full power of substitution as proxies and agents, in the name of the undersigned, to attend the Annual Meeting of Stockholders of Masimo Corporation, a Delaware corporation ( Masimo ), to be held at Masimo s principal executive offices at 40 Parker, Irvine, California 92618, on Thursday, June 7, 2012, at 2:00 p.m. local time, or any adjournment or postponement thereof, and to vote the number of shares of Masimo s capital stock that the undersigned would be entitled to vote, and with all the power the undersigned would possess, if personally present, as specified on the reverse side.

**C** Non-Voting Items

**Change of Address** Please print new address below.

**Comments** Please print your comments below.

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IF VOTING BY MAIL, YOU MUST COMPLETE SECTIONS A C ON BOTH SIDES OF THIS CARD.

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