

STATE OF ALABAMA) 1261
SHELBY COUNTY)

LAND LEASE

THIS LAND LEASE made and entered into on the 1st day of June, 1984, by and between ROGER DALE MASSEY (hereinafter referred to as the "Lessor"), and NICON, INC. an Alabama corporation, and RALPH STEPHENS and ~~CLAYTON W. PEARCE, JR.~~ ~~CLAYTON W. PEARCE, JR.~~ individually, (hereinafter collectively referred to as the "Lessee").

W I T N E S S E T H:

1. DEMISE. The Lessor, for the considerations and upon the terms, conditions and agreements hereinafter expressed, does hereby demise, rent and let unto the Lessee, for occupation and use only for the purposes stated, the following described property (hereinafter referred to as the "Premises"), situated in the City of Alabaster, County of Shelby, State of Alabama, to-wit:

A tract of land for use in merchandising and displaying housing and for the conduct of a real estate business, more particularly described as follows:

a) Begin at the Northeast corner of the SE 1/4 of NE 1/4, Section 35, Township 20 South of Range 3 West; thence run in a Westerly direction along North boundary of said quarter-quarter section 299.98 feet to the point of intersection with East boundary of right-of-way of L & N Railroad; thence turning an angle of 83 degrees and 18 minutes to the left run in a Southwesterly direction 937.16 feet to South boundary of a county road easement, said point being the point of beginning of tract of land hereby conveyed. Thence continuing along a straight line which is the East boundary of r/o/w of L & N Railroad run 183.61 feet; thence turning an angle of 96 degrees, 44 minutes, and 30 seconds to the left, run in Easterly direction 108.93 feet to the point of intersection with the West boundary of r/o/w/ of U.S. Highway No. 31; thence turning an angle of 83 degrees, 52 minutes, 30 seconds to the left run in Northeasterly direction along said line of said r/o/w/ of said Highway 53.71 feet; thence turning an angle of 90 degrees and 43 minutes to the left run in Westerly direction along boundary of said r/o/w/ 21.72 feet; thence turning an angle of 90 degrees and 33 minutes to the right run in Northeasterly direction along said West line of said r/o/w/ 118.74 feet to South boundary of county road easement, thence turning an angle of 90 degrees and 00 minutes left run in Northwesterly direction along said South line of said County road 84.30 feet to the point of beginning; being 0.3786 acres, m/o/l;

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Roger Massey
4504 Butlerwood Ln.
Bham Al. 35243

except a one foot strip of land running along the south edge of the property herein described.

b) All appurtenances, privileges and easements pertaining to the property described in Paragraph 1(a) above and all improvements located thereon.

2. RENTAL TERM. The term of this Lease shall commence on May 1, 1984 and shall continue thereafter through and including December 31, 1985. Lessee shall have the option to renew this lease for an additional one (1) year period (i.e., January 1, 1986 - December 31, 1986) by giving written notice to Lessor on or before December 1, 1985. This Lease may also be terminated by Lessee on September 30 during any lease year by giving written notice to Lessor on or before August 31 of any same year and removing all structures and restoring the land as required hereinbelow.

3. RENTAL.

a) Base Rental. Lessee shall pay Lessor as rental hereunder the sum of Five Hundred Dollars (\$500.00) per month, being at the rate of Six Thousand Dollars (\$6,000.00) per year, payable on the first day of each month during the term of this Lease. In the event Lessee exercises the option to renew this Lease (i.e., January 1, 1986 - December 31, 1986) the rent for this period shall be the sum of Seven Hundred Fifty Dollars (\$750.00) per month, being at the rate of Nine Thousand Dollars (\$9,000.00) per year. Lessee also agrees to pay any additional taxes as set out hereinbelow.

b) Increase in Ad Valorem Taxes. As additional rent hereunder, Lessee shall pay to Lessor the amount by which ad valorem taxes on the Premises for the term hereof exceed the ad valorem taxes due on the Premises for the year ending September 30, 1983. Because ad valorem taxes are determined by the use of the land and structures thereon on October 1 of any tax year and are payable in arrearage the following September 30, any increase in ad valorem taxes which may be determined while Lessee is in possession will be payable to Lessor (i.e., if Lessee is in possession October 1, 1986, any increase in ad valorem taxes due and payable October 1, 1987, will be paid by Lessee).

4. DELIVERY OF POSSESSION. Possession shall be delivered retroactive to May 1, 1984. Lessee's act of taking possession of the Premises shall be regarded as conclusive proof that the same is in satisfactory condition. The Lessor makes no representation or warranty that the land is suitable for the purpose for which it is leased.

5. TERMINATION OF POSSESSION. Upon termination of possession of the Premises, for any reason, Lessee agrees to return the Premises to Lessor clear of all debris. The Premises shall be level and not restricted to prevent parking. All concrete slabs will be completely removed from the lot, all foundations will be totally leveled to the ground, all gas lines removed and any dangerous condition corrected. In the event Lessee fails or refuses to comply with this requirement upon termination of this Lease for any reason, said failure to restore shall constitute a default under this Lease and Lessor shall have the right to restore the lot as stated and charge Lessee for said restoration, shall be entitled to a reasonable overhead expense for time and all other remedies set out in this Lease upon default of Lessee.

6. REPAIRS. Lessor shall have no obligation or responsibility to make any repairs or improvements of any nature.

7. USE; NO LIENS OF LESSOR ON DISPLAY HOUSES OR BUILDINGS. Lessee agrees to occupy and use the Premises only for the purposes herein expressed, for merchandising and displaying houses for sale and for the conduct of a real estate business. The above display buildings shall not be permanent and shall not be deemed to be attached to the land. Lessee shall at all times retain ownership of such houses and shall have the right to remove any of the buildings at the end of the lease period, including options, if the rent is current.

Lessor understands that Lessee may desire to use such display or other houses now or in the future placed on the Premises as collateral for loans to Lessee. Accordingly, Lessor acknowledges that he is the owner of the land only comprising the Premises, and does not own or have any interest in such display or other houses or improvements or structures which may now or during the term of this Lease be placed or situated on the Premises. Lessor represents and warrants to Lessee that at no time during the term of this Lease, or any extensions hereof, shall the Premises be subject to any mortgage which includes as collateral any such display houses or any other buildings on the Premises, or any fixtures attached to such buildings. Lessor represents that First National Bank of Columbiana has released any lien it may have had respecting such display houses or other buildings or fixtures under the existing mortgage on the Premises executed by Lessor and Patricia A. Massey recorded on May 22, 1981, in the Office of the Judge of Probate of Shelby County at Mortgage Book 413, Page 214.

8. SUBLEASE; ASSIGNMENT. The Lessee agrees not to sublease the Premises, or any part thereof, or to transfer the Lessee's interest in this Lease.

9. UTILITY AND OTHER SERVICES. Lessor shall furnish no utilities or services to Lessee.

10. LIEN. The Lessor shall have, and is hereby given and granted a lien (in addition to the statutory lien existing in favor of landlords) on all of the Lessee's furniture, goods and merchandise (excluding any and all buildings or display houses) at any time on or moved into the Premises during the rental period, to secure the payment of the rents and any and all other indebtedness which shall accrue to the Lessor under the terms of this Lease. The lien hereby granted shall be and remain effective notwithstanding that any part or all of the Lessee's said property may be removed from the Premises. The Lessee hereby represents to the Lessor as an important factor in obtaining this Lease, that all furniture, goods, and merchandise which have been or are to be moved onto or used on the Premises under this Lease belong to the Lessee.

11. EXEMPTIONS AND ATTORNEY'S FEES. Respecting the payment of rents and any other indebtedness which shall accrue to the Lessor under the terms of this Lease, the Lessee waives all exemptions as to personal property allowed the Lessee under the Constitution and Laws of the State of Alabama, or any other State, and agrees to pay all costs of collecting the same, including a reasonable attorney's fee. In the event of the breach by the Lessee of any one or more of the terms and conditions of this Lease, the Lessor shall be and is hereby authorized to employ attorneys to do any and all things deemed by the Lessor or such attorneys necessary to protect, conserve or promote the interest of the

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Lessor under this Lease, including the institution of legal proceedings against the Lessee, and including suit for damages for any such breach, and the Lessee agrees in that event to pay a reasonable attorney's fee to said attorneys for such services, which fee shall be secured by the lien granted to the Lessor in the next preceding paragraph hereof. Notwithstanding the above provisions of this Paragraph 11, Lessee shall have no obligation to pay Lessor's attorney's fees in connection with any dispute or legal action taken in connection with any alleged violation or default of Lessor under the provisions of Paragraph 19 below.

12. RE-ENTRY. In the event the Lessee should, without written consent of the Lessor, vacate the Premises before the expiration of the rental period, while any rents or any other indebtedness payable under the terms of this Lease are due and unpaid, or in the event this Lease is terminated as authorized by any of the provisions of Paragraph 13 hereof, the Lessor or its agents shall have the right to re-enter and re-let the Premises from time to time, as agent of the Lessee, and without notice to the latter, and such re-entry or re-letting shall not discharge the Lessee from any liability or obligation hereunder, except that net rents (that is, gross rents less the expense of collecting and handling, and less commissions) collected as a result of such re-letting shall be a credit against the Lessee's liability for rents under the terms of this Lease. Nothing herein, however, shall be construed to require the Lessor to re-enter and re-let in such event. Nor shall anything herein be construed to postpone the right of the Lessor to sue for rents, whether matured by acceleration or otherwise, but on the contrary the Lessor is hereby given the right to sue therefor at any time after default.

13. DEFAULT. The Lessee agrees that in the event of (a) the adjudication of the Lessee (or either of them, if more than one) as a bankrupt; (b) the levy of an execution or other legal process; (c) the use of the Premises or any part thereof by the Lessee, or by anyone else at the Lessee's sufferance, for immoral or illegal purposes, or in such manner as to constitute a nuisance, or for any purpose prohibited by this Lease or not reasonable within the spirit of the purposes for which the Premises are let; (d) the failure of the Lessee to pay promptly when due the rents and other indebtedness, or any part thereof, herein agreed to be paid and such failure continues for a period of ten (10) days after written notice thereof by Lessor; (e) the removal of any of Lessee's furniture, fixtures, goods, merchandise and effects from the Premises (except stock in trade sold in the usual course of business), before the termination of the rental period and before the rents and other indebtedness, if any, agreed to be paid under the terms of this Lease shall have been paid in full for the entire rental period; and (f) the Lessee's breach or failure to promptly perform any one or more of the material separate and several covenants or agreements in this Lease set forth and any such failure is not cured within thirty (30) days after written notice thereof by Lessor to Lessee; then, upon the happening of one or more of said events, the Lessor may, at its election, terminate this Lease at any time, by giving three (3) days' written notice to the Lessee of the Lessor's election to so terminate. Such termination shall be effective after three (3) days from the date such notice is given to the Lessee. Such notice, or any notice regarding this Lease or authorized or required to be given to the Lessee under the provisions of this Lease, may be properly given by mailing the same, certified mail, return receipt requested, postage prepaid, addressed to the Lessee at the address of the Pre-

mises (i.e., c/o Nikon, Inc., 717 First Street North, Alabaster, Alabama 35007) or by delivering same, in any other manner, to the Lessee or to any of his or its agents or employees at said address. Similarly, any notice regarding the Lease required or authorized to be given to the Lessor may be properly given by mailing same, certified mail, return receipt requested, postage prepaid, addressed to the Lessor as follows: Roger Dale Massey, 4504 Butterwoods Lane, Birmingham, Alabama 35243, or by delivering same, in any other manner, to the Lessor. Upon termination of this Lease as provided hereby, the Lessor shall have the right immediately to re-enter and repossess the Premises, without notice to anyone.

14. NON WAIVER. The Lessor's right to terminate this Lease upon the happening of any one or more of the events set forth in Paragraph 13 hereof, shall continue throughout the period of the existence of any default, and such right to terminate shall not be deemed waived or relinquished by the Lessor's delay in giving notice of its election to terminate, or by the Lessor's receipt of rents or other indebtedness, less than the entire amount due hereunder. No delay in the exercise by the Lessor of any other right, option or privilege given or reserved to the Lessor under this Lease shall be deemed a waiver thereof. No terms or conditions in this Lease set forth can be waived, altered or changed except in writing. This Lease evidences the entire contract between the Lessor and Lessee, and no understanding or agreement made by either party with agents or others, except as set forth herein, shall be binding on the parties hereto.

15. ACCELERATION OF MATURITY. Upon the termination of this Lease for any one or more of the causes set forth in Paragraph 13 hereof, or upon any termination of this Lease whether by acceleration or otherwise, the rents for the entire rental period, and other indebtedness, if any, payable under the provisions hereof, shall be and become immediately due and payable, without notice to the Lessee or anyone else and without regard to whether or not repossession of the Premises shall have been surrendered to or taken by the Lessor.

16. INSURANCE. As a requirement of this Lease, Lessee shall be required to purchase on and keep in effect at its sole expense, a public liability policy, acceptable to Lessor, insuring Lessor for a minimum of \$1,000,000.00 against injury on or about said property.

17. PERSONS BOUND. The designation "Lessee", and all plural and singular words used herein to refer to the person or persons hereby leasing the Premises from the Lessor, shall be construed to refer to all of the undersigned (except the Lessor), whether one or more than one. The terms, provisions and agreements herein contained shall be binding upon and shall inure to the benefit of the parties hereto, and to their respective successors, assigns, heirs and representatives, as the case may be; provided, however, that Lessee may not assign this Lease or sublease the Premises.

18. EMINENT DOMAIN. If the whole or any part of the Premises shall be taken by Federal, State, County, City or other authority for public use or under any statute, or by right of eminent domain, then when possession shall be taken thereunder of said Premises, or any part thereof, the term hereby granted and all rights of the Lessee hereunder shall immediately cease and terminate, and the Lessee shall not be entitled to any part of any award that may be made for such

taking, nor to any damages thereof except that the rent shall be adjusted as of the date of such termination of the Lease.

19. FIRST RIGHT OF REFUSAL. In the event Lessor receives a bona fide binding offer to purchase the Premises made at arms length by an individual, partnership, corporation or other entity, Lessee shall have the first right of refusal to purchase the premises on the same terms and conditions as the above offer. Lessor shall notify Lessee of any such offer for sale and shall disclose all terms and conditions of such offer to Lessee. Lessee shall then have sixty (60) days or through September 30 of said year, whichever is longer, to exercise its first right of refusal by written notice to Lessor. In the event Lessee does not exercise its right of first refusal by written notice within the period described above, or in the event Lessee elects not to purchase the Premises by written notice to Lessor, then Lessor shall have sixty (60) days after the expiration of the above period or the giving of such notice, as the case may be, to close the sale of the Premises to the third party offeror on the same terms and conditions set forth in the offer described above. In the event such sale is not closed within such sixty (60) day period on the same terms and conditions, then the provisions of this Paragraph 19 shall again apply to any offer to purchase the Premises (whether by the same offeror or a different offeror and whether or not upon the same or different terms). In the event that the Premises are sold within such sixty (60) day period to the offeror on the same terms contained in the offer described above, then this Lease shall continue through December 31 of the then current calendar year, at which time this Lease shall terminate and Lessee shall deliver possession of the Premises to the owner thereof.

IN WITNESS WHEREOF, this Lease has been executed and subscribed by the Lessor, Roger Dale Massey, and by the Lessee, Nikon, Inc., by its President, who is legally authorized thereunto on this the day and year first above written.

LESSOR:

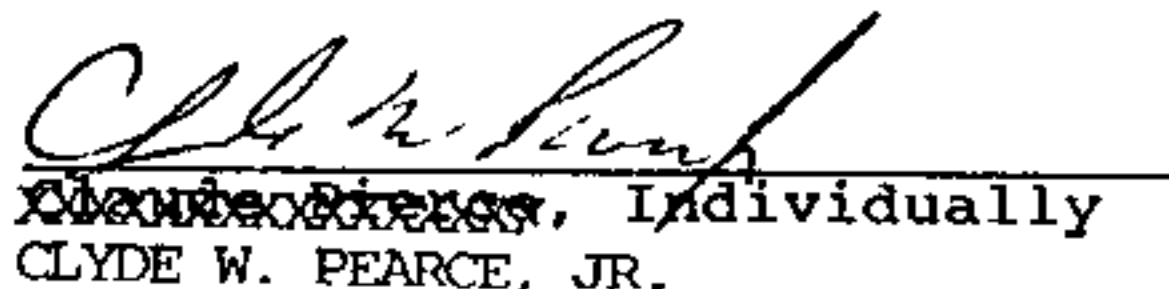

Roger Dale Massey

LESSEE:

NICON, INC.

By: 
Its President


Ralph Stephens, Individually


Clyde W. Pearce, Individually
CLYDE W. PEARCE, JR.

STATE OF ALABAMA)
Shelby COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Roger Dale Massey, whose name is signed to the foregoing Land Lease, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 24th day of July, 1984.

Lucy M. Attaway
Notary Public

My Commission Expires May 7, 1988

STATE OF ALABAMA)
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Ralph W. Stephens, whose name as President of Nicon, Inc., an Alabama corporation, is signed to the foregoing Land Leases, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation on the day the same bears date.

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Given under my hand and official seal this the 25th day of June, 1984.

Cyril T. Story
Notary Public

My Commission Expires: 5/10/85

STATE OF ALABAMA)
COUNTY)

PEARCE, JR. I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Ralph Stephens and ~~CLYDE W. PEARCE~~ whose names were signed to the foregoing Land Lease, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 10th day of July, 1984.

Cyril T. Story
Notary Public

My Commission Expires: 5/10/85

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1984 JUL 24 PM 1:28

Thomas A. London, Jr.
JUDGE OF PEACE

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