

Mutual Confidentiality and Non-Disclosure Agreement

THIS AGREEMENT is made on the day of _____, by: _____,
_____ and Valmark Industries, Inc. (known herein as "Valmark").

- 1. Purpose.** _____ and Valmark Industries wish to explore a business possibility under which each may disclose its Confidential Information to the other.
- 2. Definition.** "Confidential Information" means any information, technical data, or knowledge, including, but not limited to, that which relates to research, products, services, customers, markets, software, developments, prototypes, inventions, processes, designs, drawings, engineering, intellectual property, marketing or finances, whether received orally or in writing. Confidential Information may also include any other information or subject matter designated as Confidential at the time of the disclosure. Confidential Information does not include information, technical data or knowledge which: a) is in the possession of the receiving party at the time of disclosure as shown by the receiving party's files and records immediately prior to the time of disclosure; b) prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the receiving party; or c) is approved for release by the disclosing party.
- 3. Non-Disclosure of Confidential Information.** _____ and Valmark Industries each agree not to use any Confidential Information disclosed to it by the other party for its own use or for any purpose other than to carry out discussions concerning, and the undertaking of, the business possibility for which the Confidential information is being disclosed. Neither party shall disclose or permit disclosure of any Confidential Information of the other party to third parties or to employees of the party receiving Confidential Information, other than directors, officers, employees, consultants and agents who are required to have the information in order to carry out the contemplated business. Each party has had or will have its directors, officers, employees, consultants and agents who have access to Confidential Information of the other party sign a nondisclosure agreement in content substantially similar to this agreement. Each party agrees that it shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this agreement to have any such information. Such measures shall include, but not be limited to, the highest degree of care that the receiving party utilizes to protect its own Confidential Information of a similar nature, which shall be no less than reasonable care. Each party agrees to notify the other in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of Confidential Information of the disclosing party which may come to the receiving party's attention.
- 4. Exceptions.** Notwithstanding the above, neither party shall have liability to the other with regard to any Confidential Information of the other which the receiving party can prove: (i) was in the public domain at the time it was disclosed or has entered the public domain through no fault of the receiving party; (ii) was known to the receiving party, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (iii) is disclosed with the prior written approval of the disclosing party; (iv) is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, however, that the receiving party shall provide prompt notice of such court order or requirement to the disclosing party to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure.

Valmark Interface Solutions™

161 S. Vasco Road, Suite L
Livermore, CA 94551

E sales@nidec-vis.com
O 925 960 9900
F 925 960 0900
W Nidec-VIS.com

5. **Return of Materials.** Any materials or documents of which have been furnished by one party to the other will be promptly returned, accompanied by all copies of such documentation, after the business possibility has been rejected or concluded. Notwithstanding, the receiving party may retain one copy of such information as necessary either for archival purposes or to comply with applicable document retention requirements.
6. **Patent or Copyright Infringement.** Nothing in this Agreement is intended to grant any rights under any patent or copyright of either party, nor shall this Agreement grant either party any rights in or to the other party's Confidential Information, except the limited right to review or disclose such Confidential Information as specifically permitted under this agreement.
7. **Term.** The foregoing commitments of either party in this Agreement shall survive any termination of discussions between the parties, and shall continue for a period of five (5) years following the date of this Agreement.
8. **Miscellaneous.** This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information of either party may not be assigned without the prior written consent of the disclosing party. Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof.
9. **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of California, and shall be binding upon the parties hereto in the United States and worldwide. The federal and state courts within the State of California shall have exclusive jurisdiction to adjudicate any dispute arising out of this Agreement.
10. **Remedies.** Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages would be inadequate to compensate the other party for any breach by either party of any covenants and agreements set forth herein. Accordingly, each party agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

RECIPIENT

VALMARK INDUSTRIES, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Valmark Interface Solutions™

161 S. Vasco Road, Suite L
Livermore, CA 94551

E sales@nidec-vis.com

O 925 960 9900

F 925 960 0900

W Nidec-VIS.com