

Terms and Conditions

1. Introduction

These Terms and Conditions (“the Agreement”) are the framework by which Valmark Industries, Inc. (known herein as “Valmark”) provides quotations, products and services and is the sole agreed-to terms of business our customers (also known as “Buyer”) accept when providing Valmark a valid and confirmed Purchase Order (PO). These terms and conditions are referenced on every email, quotation and may be found, in detail, on every invoice and on our website (www.nidec-vis.com). Any clerical errors are subject to corrections.

1.1 Modifications, changes, additions, cancellations or suspensions will not be binding upon us unless accepted by an officer of our company in writing upon terms that will indemnify us against all loss.

1.2 When your orders contain printed or stamped provisions inconsistent with the written, printed or stamped provisions of our acknowledgement, our acknowledgement will prevail.

1.3 Changes to Valmark Terms and Conditions – Valmark Industries, Inc. may amend this Agreement at any time by posting the amended and restated Agreement on our website (www.nidec-vis.com). The amended Agreement shall be effective immediately upon posting. This Agreement was last amended on December 1, 2010. Posting by Us of the amended and restated Agreement and your continued use of the Site, acceptance of our products, quotations and placement of Purchase Orders (PO) shall be deemed to be acceptance of the amended terms. This Agreement may not otherwise be modified, except in writing by an authorized officer of Valmark Industries, Inc.

2. Quotations

Quoted prices will be honored for 30 days with the exception of the materials used in production of this order. These terms are subject to market fluctuation and customer will be notified of any changes upon placement of their orders. Any clerical errors are subject to corrections. Prices are subject to any city, county, state, or Federal Taxes which are or may become effective and are based on continuous manufacturing in the quantities specified.

3. Orders

All products fabricated by Valmark Industries are custom and therefore all orders regularly entered, verbal or written, cannot be cancelled without permission of Valmark and only upon terms that will compensate Valmark against any losses incurred in reliance of the order. We reserve the right to run the total quantity at one time when an order is placed for scheduled releases. Therefore, no changes may be made by Buyer in design, quantity, or release dates without our prior written approval in accordance with Section 17.

3.1 Blanket orders with periodic releases will be considered as firm orders for the total amount of all releases. This type of order may be produced at one time by Valmark to effect cost savings, which are also reflected in the order quantity pricing. Blanket orders have a maximum release of 12 months from order date. Any remaining parts at the end of the 12-month period will automatically be shipped and billed.

3.2 If quantities are reduced or production held up or interrupted by the Buyer, parts will be subject to extra charge for any losses involved. Reorders for parts previously manufactured are considered as placed under the same terms and conditions as the original contract, except for such price changes as may be necessary, when such orders are not placed pursuant to a formal quotation and acceptance.

4. Tooling Preparation

Tooling preparation includes any item, which must normally be prepared one time for use in producing the end product. This may include, but is not limited to, art work, specification drawings, photographic films, cutting dies, embossing dies, jigs, fixtures, etc. Cost of preparation for these items is listed separately on the quotation. These costs are not part of the normal selling process and therefore Valmark does not relinquish title to these items without a minimum 50% additional charge. Valmark will solely determine if it will relinquish any tooling for any project at its sole discretion on a case-by-case basis regardless of any extra charges. All tooling is maintained and stored by Valmark for the exclusive use of the customer for production on the product originally intended and for any subsequent orders up to 2 years for date of last order. Tooling will then automatically be destroyed unless purchased by the customer. If long run requirements necessitate repair or replacement of tooling due to normal wear, Valmark will be responsible for these costs unless agreed to before hand. If the customer has supplied tooling, any repair or replacement of tooling due to normal wear will be the responsibility of the customer upon notification of same prior to commencement of order requiring these repairs or replacements.

5. Approvals/Alterations

At various stages of production the customer may be requested to approve such items as performance specifications, testing methods, graphic designs, electrical schematics, color swatches, etc. These items are presented at no charge unless specifically quoted or later determined by Valmark to be excessive by comparison to normal requirements. In order to meet promised delivery of the end product, it is the customer's responsibility to respond to these requests within the time limits stated on the approval request. Delays may affect delivery of the end product by a greater amount of time than the customer's approval delay. This is due to rescheduling of work orders, which may have been filled in the meantime by other jobs. Alterations requested by the customer before or during production may affect pricing and will be quoted prior to commencing any changes.

6. Prototypes and Production Parts

A. Valmark prototypes are actually a production run of 10 parts. Unless otherwise specified by Valmark, parts will be produced with production quality tooling and/or equipment to assure identical prototypes and production quantity parts. Prototype pricing is not contingent on placing a production order.

B. Preproduction parts are also production parts. Depending on the complexity of the production order, set up charges will be quoted prior to commencing production of preproduction parts. Any changes requested by the customer specifications, will be quoted and added to the initial release invoice. Those charged or changes necessitated by Valmark's deficiency to follow specifications will not relieve customer of any responsibility to accept the parts once produced as ordered.

C. Valmark Industries maintains duplicative manufacturing sites and capabilities to take advantage of economies of scale. At its sole discretion, except where agreed to in writing or by law, Valmark will decide which Valmark factory will build a particular prototype, preproduction and/or production run of parts. The basis for this decision may be the result of capacity, equipment, FOB ship points, costs, BOM availability, etc. Unless otherwise noted in writing or required by law, Valmark is not required to inform the customer of the manufacturing location inasmuch as it relates to price, delivery or quality.

7. Over runs or Under runs

For all roll-stock products, overruns or under runs not to exceed 10% of the amount of the total order shall constitute an acceptable delivery unless otherwise specified in writing at time of quotation. The customer on the face of the purchase order must also state any agreed upon deviation of this policy. Customer's "boiler plate" or verbal changes to the policy will not be considered as adequate notification. Any changes to this policy must be accepted and confirmed in writing by Valmark.

8. Customer's Property

All customer's property that is stored or used in manufacturing at Valmark's facility is at the customer's risk and Valmark will not be liable for loss due to fire, force majeure, etc. or any other cause which is not reasonably within Valmark's control.

9. Deliveries

Delivery dates on quotations are estimated based on production schedules at time of quotation. Since all orders are custom in nature, standard delivery estimates may not apply in all cases. Firm dates will be quoted after the order has been placed into production schedules on a planning basis. Unless otherwise specified by the customer and agreed to by Valmark, all orders will be shipped F.O.B. Valmark's factory. Title and risk of loss shall pass to the customer, upon delivery to the carrier at Valmark's factory.

10. Contingencies

The seller shall not be responsible for delays or defaults due to strikes, war, acts of God or other causes beyond its control. Seller shall not be liable for delay in performance hereof arising from any cause not within Seller's reasonable control, including, but not limited to, accidents to, or breakdowns to, mechanical failure of, plant machinery or equipment arising from any cause whatsoever, strikes or other labor troubles, labor shortage, fire, flood, war, acts of the public enemy, acts of God, priorities, allocation, limitations, or other acts required or requested by Federal, State or local government or any sub-division, bureau or agency thereof, or failure of usual sources of supply of material.

In the event of delay or failure of performance not excused under the foregoing subdivision, Seller's liability shall not exceed that portion of the invoice price represented by the quantity of the material delayed or not shipped. In no event shall Seller be liable for any consequential, special or contingent damages.

11. Non-Conforming Delivery and Risk Of Loss

Buyer shall notify Valmark of any visible defects, quantity shortages or incorrect product shipments within seven (7) days of receipt of the shipment. Failure to notify Valmark in writing of any visible defects in the products or of quantity shortages or incorrect shipments within such period shall be deemed an unqualified waiver of any rights to return products on the basis of visible defects, shortages or incorrect shipments,

subject to Buyer's rights under Section 12. Valmark shall retain a security interest in the products until Buyer's final payment to Valmark for the products. Risk of loss and title shall pass to Buyer as soon as the products have been placed with a transport agent.

12. Payment Terms

Standard payment terms are net 30 (or 1% / net 10). However, all payment terms will be determined for all orders by the Valmark's accounting department and may be based on D & B reports or other available credit information. Orders are not considered firm until terms have been issued in writing on the order acknowledgment.

13. Severability

In the event any one or more of the provisions of this Agreement is invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired.

14. Warranty

Valmark Industries, Inc. ("Valmark") warrants this Product to function within tolerances specified on OEM Customer specifications and/or Valmark QC SOPs, as required. Valmark warrants this Product against defects in material or workmanship as outlined by specifications and Valmark SOPs.

(1) Term of Warranty: For a period of one (1) year from the date of purchase and/or shipment, if the product is determined to be defective, Valmark will repair or replace the Product, at its option, at no charge.

(2) Any final assembly, modification and/or rework performed by the OEM customer or its agents (e.g., contract manufacturer) limits Valmark's responsibility ONLY to the review and engineering analysis of any failed and/or damaged parts.

(3) Valmark Industries, Inc. TOTAL liability shall be limited to the: (1) replacement of parts or (2) credit for the original order cost of parts found to be defective. Any replacement of parts, credit or rework will be done solely at the discretion of Valmark Industries, Inc.

This standard warranty does not cover damage due to acts of God, accident, misuse, abuse, negligence, use outside operational specifications, or modification of, or to any part of the Product. This warranty does not cover damage due to improper operation or maintenance, connection to improper voltage supply, or attempted repair by anyone other than Valmark Industries, Inc.

This warranty is invalid if the factory-applied serial number has been altered or removed from the Product.

Repair or Replacement as provided under this warranty is the exclusive remedy of the customer. Valmark shall not be liable for any incidental or consequential damages for breach of any express or implied warranty on this Product. Except to the extent prohibited by applicable law, any implied warranty use or fitness for a particular purpose on this product is limited in duration to the duration of this warranty.

Note: Inasmuch as Valmark Industries, Inc. has no control over the use to which others may put these materials and assemblies, it does not guarantee that the same results as those described herein will be obtained. Nor does Valmark Industries, Inc. guarantee the effectiveness or safety of any possible or suggested design for articles of manufacture as illustrated herein by any photos, technical drawings and

the like. Each OEM customer of our products or design or both should make his own tests to determine the suitability of the materials, finished products, or any materials for the design, as well as the suitability of the materials, products and/or design for his own particular application.

15. Suitability

Under no circumstances shall Valmark have any liability or obligation with respect to expenses, liabilities or losses associated with the installation or removal of any Products or the installation of replacement Products or for the inspection, testing, or redesign occasioned by any defect to buy the repair of replacement of Products. Valmark must be notified in writing promptly after discovery of customer of the alleged defect and explain in detail the alleged defect. The Products containing the alleged defect must be returned promptly to Valmark. The Valmark's examination of such Products must disclose to Valmark's satisfaction that the alleged defect actually exists and occurred in the course of proper and normal use and was not caused by accident, misuse, neglect, alteration or improper installation, repair or testing. If any Products prove to contain any defect and Valmark elects to repair or replace them, Valmark shall have a reasonable time to make such repair or replacement. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY PARTICULAR PURPOSE OF NONINFRINGEMENT, AND OF ANY OTHER OBLIGATION ON THE PART OF VALMARK INDUSTRIES, INC.

16. Limits of Liability

The Valmark's liability and obligations with respect to any claims issued by the customer, or any other party, shall in no event exceed in the aggregate the total purchase price of the goods at issue.

17. Order Cancellation & Rescheduling

All products fabricated by Valmark Industries, Inc. for the Buyer are custom products. There are no standard products sold by Valmark.

Therefore, all POs are final and subject to standard industry terms of a Non-Cancellable and Non-Refundable (NCNR) contract. Should the Buyer determine they need to cancel a PO after 24 hours after receipt and confirmation, of a PO they will need: (1) Written request of the Buyer, (2) written approval of Valmark, and (3) the payment to Valmark of a fair and equitable cancellation charge(s). General rules for any cancellations or rescheduling is as follows:

17.1 Cancellation Charges: Buyer agrees to pay Valmark for all of Valmark's out of pocket costs associated with the cancellation of the order including, but not limited to: (1) raw materials, (2) work in process including, but not limited to, non-reoccurring engineering and/or tooling costs, (3) inventory carrying costs, (4) scrapping and disposal fees, and (5) a reasonable and equitable profit for Valmark, which shall not be less than twenty percent (20%) of such costs. In no case will the cancellation charge be less than Valmark's actual costs (including overhead and other indirect costs). The amount of cancellation charge to be charged to Buyer shall be determined at the sole discretion of Valmark and may equal 100% of the amount of the order at the time of Valmark's receipt of Buyer's request for cancellation. Buyer also shall pay promptly to Valmark the costs of settling and paying claims arising out of the termination of work under Valmark's subcontracts or vendors and any accounting, legal, and clerical costs arising out of the cancellation.

17.2 Valmark's Cancellation: Valmark shall have the right to cancel any unfilled order without notice to Buyer in the event that Buyer becomes insolvent, adjudicated bankrupt, petitions for, or consents to, any relief under any bankruptcy reorganization statute, or becomes unable to meet its financial obligations in the normal course of business.

17.3 Rescheduling by Buyer [for non-kanban products] shall have the following conditions apply without penalty: (i) Buyer may not reschedule any NCNR order within thirty (30) days of the confirmed ship date; (ii) Buyer may reschedule an NCNR order one (1) time within sixty (60) days of the confirmed ship date if the new ship date is less than thirty (30) days from the original date;

*Note: Any part number may be rescheduled with the above conditions only one (1) time per year.

18. Cautions

Cautions with respect to handling and subsequent assembly of Valmark's product by the customer are supplied with each shipment. Damage to parts may be attributed to improper unpacking and handling prior to use and may void the warranty.

19. Returns

Returns are only permitted by VIS' Return Authorization process. All returns whether for purposes of engineering evaluation, RMA, rework, etc. will only occur with a correct RMA number.

Special note: All product shipped to medical customers, OEM or end-use customers, that request to return product for any purpose are required to provide a Certificate of Sterilization. This is to insure that no materials that may be contaminated by pathogens and/or toxins are sent to VIS. This Certificate must accompany every package in the return shipment. This Certificate of Sterilization declaration may be found [here](#).

Valmark has available a complete listing of standard tests and specifications of its products. The customer is responsible for requesting and reviewing this document and listing on their drawings any test or specifications desired which may not be standard for Valmark and/or which must be tested for.

Due to the very custom nature of each product by Valmark it may not be feasible for the customer to supply the finite specifications, which will allow finite engineering within reasonable quotation time constraints. Therefore, Valmark reserves the right, upon engineering review of the actual order to make adjustments for meeting final job requirements. In those cases, the customer will have the option to approve additional reasonable charges, change specifications, or cancel the order without any obligation. Buy changes submitted after the order has been placed will be quoted and applied to the final price upon confirmation.

Valmark may, at its sole discretion to maintain quality, delivery and/or costs may substitute similar or equivalent materials and/or BOM components for any of its Products without prior approval of the customer.