

保密承諾書

NON-DISCLOSURE UNDERTAKING

立承諾書人：_____（下稱「接受方」）

Person undertaking hereby: _____ (“Recipient”)

緣茂德科技股份有限公司（下稱「提供方」）預計出售提供方所擁有之中部科學園區廠房及其附屬設施（下稱「本出售案」），而接受方有購買之意願。是以，提供方擬提供或揭露機密資料（定義如后）予接受方；接受方同意對機密資料嚴格保密，並承諾同意遵守以下條款：

WHEREAS, ProMOS Technologies, Inc. (“Discloser”) would like to sell its factories and its adherences located in the Central Science Park (hereinafter referred to as the “Sale”). Recipient will participate in the Sale and accordingly Discloser will provide or disclose the Confidential Information (as defined below) to the Recipient. Recipient agrees to strictly keep the confidentiality of Confidential Information and undertakes to comply with the following terms:

第一條 機密資料之定義

Definition of the Confidential Information

- 一、「機密資料」係指，接受方或其關係人、代表人、代理人、受僱人、使用人及顧問，因進行本出售案，而取得與本出售案、提供方或其關係企業相關之資訊、電腦資料、文件、契約或其他任何資料。惟下列資料不屬於機密資料：

“Confidential Information” means any information, computer data or files, documents, contracts or any other materials received by the Recipient, its related parties, representatives, agents, employees, personnel or consultants in connection with the Sale, the Discloser or its affiliated enterprises of the Sale, provided that the following materials shall not be considered as Confidential Information:

- (一)非因接受方或其關係人、代表人、代理人、受僱人、使用人或顧問之揭露，而為公眾所週知者；

Is or falls into the public domain without disclosure by the Recipient or its related parties, representative, agent, employee, personnel or consultant(s),

- (二)於提供方提供或揭露機密資料予接受方前，且有足夠證據顯示接受方已持有或知悉，且不負保密義務者。

Was already known to the Recipient prior to receipt from Discloser and such knowledge and obtain is supported by sufficient evidence and the Recipient does not have confidentiality obligation.

- 二、「關係企業」之定義悉依公司法第369條之1、第369條之2及第369條之3之規定所載。

The term “affiliated enterprises” is as defined in Article 369-1, 369-2 and 369-3 of the

Company Act.

第二條 保密義務

Confidentiality Obligation

- 一、 接受方承諾且擔保，對於接受方取得之機密資料，無論該等資料係屬口頭、書面或電子檔案，接受方均負有保密義務，絕不外洩機密資料，並有嚴密之保護措施，接受方應遵守於其內部建立妥適內部控制機制，並應作定期與不定期之考核。接受方除得將機密資料揭露予與本出售案相關之接受方代表人、代理人、受僱人、使用人或顧問外，未經提供方事前書面同意，不得揭露、洩漏或交付予第三人。如接受方因法令規定、法院或主管機關之命令或請求，必須揭露機密資料者，接受方應於法令許可範圍內，立即通知提供方，以便採取必要之保護措施。

The Recipient hereby undertakes and guarantees that it shall strictly keep and maintain the secrecy and confidentiality of the Confidential Information received, orally, in writing or in electronic form, by the Recipient and shall implement strict protection measures. The Recipient shall establish appropriateness internal control mechanisms and conduct audit periodically and non-periodically. Except the Recipient may provide the Confidential Information to its representatives, agents, employees, personnel or consultants in connection with the Sale who have a need to know, the Recipient shall not disclose, reveal or deliver the Confidential Information to any third party without Discloser's prior written consent. If the Recipient is required to disclose the Confidential Information according to the laws and regulations, order or request of a court or competent authority, the Recipient shall immediately notify the Discloser to the extent permitted by law in order to take the necessary protective measures.

- 二、 接受方擔保其關係人、代表人、代理人、受僱人、使用人及顧問，確實遵循本承諾書之保密義務。

The Recipient guarantees that its related parties, representatives, agents, employees, personnel or consultants shall strictly comply with confidentiality obligation in this Undertaking.

- 三、 接受方所取得之機密資料僅限作為進行本出售案評估之目的使用。

The Confidential Information received by the Recipient may be used only for the purpose of conducting the assessment of the Sale.

- 四、 非經提供方之事前書面同意，接受方不得毀損、竄改、抄錄、複製或重製機密資訊之全部或一部，亦不得將取得之機密資料之權利及應負之責任義務讓與予他人。

The Recipient shall not damage, tamper, transcribe, copy or reproduce all or part of the Confidential Information and shall not transfer or assign the right to acquire the Confidential Information or its confidentiality obligations to any third party without the Discloser's prior written consent.

- 五、 接受方如因任何因素無法與提供方達成本出售案買賣交易，或本承諾書經提前終止或解除時，接受方應於提供方書面通知後，立即將機密資料返還予提供方，

或依提供方之指示銷毀機密資料，接受方不得留存任何備份、影本、電磁紀錄或電腦檔案。

If the Recipient fails the transaction of the Sale with the Discloser for any reason cannot be reached in the Sale, or this Undertaking is early terminated or rescinded, the Recipient shall, upon receiving a written notice from the Discloser, immediately return all Confidential Information to the Discloser or destroy the Confidential Information in accordance with the instructions of the Discloser. The Recipient shall not retain any archival copy, photocopy, electronic records or computer files.

第三條 損害賠償責任

Liabilities for Damages

接受方如違反本承諾書之規定，致提供方受到任何損害時，應負損害賠償責任。接受方之關係人、代表人、代理人、受僱人、使用人或顧問如違反本聲明書之保密義務，致提供方受到任何損害時，接受方應負連帶賠償責任。

If the Recipient breaches any provision of this Undertaking and causes any damage to the Discloser, the Recipient shall be liable for damages. If the case where the Recipient's related parties, representatives, agents, employees, personnel or consultants breaches the confidentiality obligation in this Undertaking and causes any damage to the Discloser, the Recipient shall jointly and severally be liable for damages.

第四條 知悉暨免責事項

Acknowledge and Disclaimer

接受方瞭解，提供方對機密資訊之正確性及完整性均不負保證責任。且接受方應依自己之分析與判斷決定是否採信機密資訊及參與本出售案。

The Recipient acknowledges and understands that the Discloser makes no warranties to the correctness or completeness of the Confidential Information. The Recipient shall decide whether to adopt the Confidential Information or participate in the Sale by its own analysis and judgment.

第五條 義務遵守期間

Obligation Term

接受方於本承諾書下所負之義務及承諾，自本承諾書簽署日起三年內有效。但經提供方書面通知提前解除責任者，不在此限；且無論接受方後續是否與提供方締結合約，本承諾書所定之義務及承諾，均仍對接受方構成合法且有效之拘束。

The Recipient's obligations and undertakings under this Undertaking shall continue to be valid for three (3) years upon signing of this Undertaking, unless the Discloser provides a written notice to release the Recipient's obligations. Regardless whether the Recipient subsequently signs an agreement with Discloser, the obligations and undertakings under this Undertaking shall continue to be legally effective and binding on the Recipient.

第六條 準據法及管轄法院

Governing Law and Jurisdiction

本承諾書之準據法為中華民國法律，因本承諾書所生之爭議，接受方同意以臺灣臺北地方法院為第一審專屬管轄法院。

This Undertaking shall be governed in all respects by the laws of the R.O.C. and disputes hereunder shall be exclusively subject to the jurisdiction of the Taipei District Court.

第七條 不可分性暨不可讓與性

Inseparability and Non-Transferrable

本承諾書構成與本出售案之相關契約之一部分，但本承諾書若有任何無效之情事，不影響其他部分契約之效力。

接受方非經提供方事前書面同意，不得將取得機密資訊之權利及所負擔之義務讓與他人。

This Undertaking shall constitute a part of the relevant contracts of the Sale. If any provision of this Undertaking is void, the other part remains valid.

The Recipient shall not transfer or assign the right to acquire the Confidential Information or delegate its confidentiality obligations to any third party without the Discloser's prior written consent.

第八條 其他

Miscellaneous

本承諾書以中文及英文並存，如內容牴觸時，以中文為準。

The content of this Undertaking is in both Chinese and English. For any inconsistency between the two languages, the Chinese version shall prevail.

此致

Submitted to:

茂德科技股份有限公司
ProMOS Technologies, Inc.

接受方：_____

Recipient

代表人：

Representative:

地址：

Address:

2013 年 月 日

Date: ,2013