

## **CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT**

**THIS AGREEMENT** made as of Aug 27th, 2009.

**BETWEEN:**

**Wuxi Suntech Power Co., Ltd.**, 17-6 Changjiang South Road,  
New District, Wuxi, Jiangsu Province 214028, People's Republic  
of China

(“Disclosing Party”)

- and -

**IPS Ltd.**, 33 Jije-dong, Pyeongtaek-city, Gyeonggi-do, Republic  
of Korea

(“Recipient”)

**WHEREAS:**

- A. the Disclosing Party and the Recipient are discussing a possible [RIE equipment/process/layout improvement] in connection with one or more potential transactions involving the Disclosing Party and/or certain of the Disclosing Party’s subsidiaries solar cell related and RIE improvement related information and/or its or their assets (for RIE improvement for solar cell production); and
- B. the Disclosing Party has agreed to make available to the Recipient certain confidential information concerning the Disclosing Party and/or certain of the Disclosing Party’s subsidiaries and/or its or their assets on the terms and conditions set forth in this Agreement in furtherance of the Recipient’s assessment of the Potential Engagement.

In consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Disclosing Party and Recipient agree as follows:

**1. Interpretation.** For the purposes of this Agreement:

- (i) “Confidential Information” means all information, data, knowledge and know-how (in whatever form and however communicated or maintained, whether orally, electronically or documentary, computer storage or otherwise) relating, directly or indirectly, to the Disclosing Party and/or the Disclosing Party’s subsidiaries and/or its or their assets that is delivered or disclosed by the Disclosing Party or by any of its officers, directors, employees, agents or affiliates to the Recipient in connection with the Potential Engagement, in writing, electronically, verbally or through visual means or which the Recipient obtains naturally, through

observation or through analyses, interpretations, compilations, studies or evaluations of such information, data, knowledge or know-how, but does not include such information, data, knowledge or know-how in connection with the Potential Engagement, as shown by written or electronic records, that is in the Recipient's or its affiliates' possession prior to disclosure thereof by the Disclosing Party to the Recipient, is in the public domain prior to the disclosure thereof by the Disclosing Party to the Recipient, enters the public domain through no violation of this Agreement after disclosure thereof by the Disclosing Party to the Recipient or becomes available to the Recipient on a non-confidential basis from a source other than the Disclosing Party who is not, to the Recipient's knowledge, after reasonable enquiry, under any obligation of confidentiality to the Disclosing Party;

- (ii) “person” includes an individual, corporation, partnership, party, trust, fund, association and any other organized group of persons and the personal or other legal representative of a person to whom the context can apply according to law;
  - (iii) “Purposes” means the assessment by the Recipient of the Potential Engagement;
  - (iv) “Representatives”, used with respect to a person, shall include the directors, officers, employees, representatives, associates, agents, attorneys, consultants, accountants, financial and other advisors, and commercial bankers of or to such person;
  - (v) “subsidiary” means an entity that is controlled by another entity;
- (b) an entity is affiliated with another entity if:
- (i) one of them is the subsidiary of the other; or
  - (ii) each of them is controlled by the same person.
- (c) an entity is controlled by a person if:
- (i) voting securities of the entity are held, other than by way of security only, by or for the benefit of that person; and
  - (ii) the voting rights attached to those voting securities are entitled, if exercised, to elect a majority of the directors of the entity.
- (d) a person beneficially owns securities that are beneficially owned by:

- (i) an entity controlled by that person; or
  - (ii) an affiliate of that person or an affiliate of any entity controlled by that person.
2. **Confidential Information.** The Disclosing Party will disclose and make available to the Recipient certain Confidential Information for the Recipient's use in connection with the Purposes.
3. **Use of Confidential Information.** The Recipient agrees to use the Confidential Information solely for the Purposes and for no other purpose. The confidential information can solely be used for the order of disclosing party. In no event shall the Recipient, its affiliates, or its or their Representatives be deemed to have acquired any right or interest of any kind in or to the Confidential Information.
4. **Disclosure of Confidential Information.** The Recipient agrees to keep the Confidential Information confidential and not to disclose the Confidential Information to any person or entity other than (a) such of the Recipient's affiliates who have a bona fide need to have access to such Confidential Information in order for the Recipient or such affiliates to carry out the Purposes and who have agreed to be likewise bound by the provisions of this Agreement, (b) such of the Representatives of the Recipient or its affiliates who have a bona fide need to have access to such Confidential Information in order for the Recipient or such affiliates to carry out the Purposes and who have agreed to be likewise bound by the provisions of this Agreement, and (c) such other persons as the Disclosing Party hereafter agrees in writing at the request of the Recipient may receive such Confidential Information (which agreement may be withheld for any reason or for no reason). In keeping Confidential Information confidential hereunder, the Recipient will take the same precautions to maintain the confidentiality thereof as the Recipient, acting reasonably, would take to maintain the confidentiality of its own valuable confidential information. The Recipient and any of its affiliates that have agreed to be bound hereby shall be responsible and liable for any use or disclosure of the Confidential Information by such parties in violation of this Agreement. Nothing contained herein shall be deemed to prevent disclosure of any of the Confidential Information if such disclosure is legally required to be made in a judicial, administrative, or governmental proceeding pursuant to a valid subpoena or other applicable order or a request from regulators having jurisdiction over the Recipient; provided, however, to the extent legally permitted the Recipient shall give the Disclosing Party prompt written notice before disclosing any of the Confidential Information in any such proceeding and, in making such disclosure, the Recipient shall disclose only that portion thereof required to be disclosed and shall take all reasonable efforts to preserve the confidentiality thereof.
5. **No Representations and Warranties.** Unless otherwise subsequently agreed in writing, the Disclosing Party specifically disclaims and makes no representation or warranty, express or implied, as to the accuracy, completeness, usefulness or reliability of the Confidential Information or any portion thereof, and the Recipient shall use the

Confidential Information at its own risk. Recipient agrees that neither Disclosing Party nor its Representatives shall have any liability to Recipient or any of its Representatives relating to or resulting from the use of the Confidential Information or any errors therein or omissions therefrom. Unless subsequently agreed in writing, the Recipient shall rely solely on its own appraisal and estimates as to the value and condition of the assets of Disclosing Party and shall rely solely on its own interpretations and analyses related thereto.

6. **Copies of Documents.** The Recipient agrees not to make or reproduce any copies of any document (or any portion thereof) which is part of the Confidential Information, except to deliver copies of such documents to the persons described in Section 4 of this Agreement following compliance of such persons with the provisions thereof.
7. **Return of Documents.** The Recipient agrees to return to the Disclosing Party promptly after a written request by the Disclosing Party, all documents (including all copies thereof, other than one required to be maintained for audit purposes or by applicable law and regulation which will remain subject to the terms of this Agreement) which have been delivered or disclosed to the Recipient, its affiliates, or its or their Representatives, or which the Recipient, its affiliates, or its or their Representatives, have obtained, in each case as part of the Confidential Information.
8. **Legal Remedies.** Recipient agrees that: (a) money damages may not be a sufficient remedy for any breach of this Agreement by Recipient, any of its affiliates, or any of its or their Representatives; (b) in addition to any other remedies at law or in equity that Disclosing Party may have, Disclosing Party shall be entitled to equitable relief, including injunction and specific performance in the event of any breach of the provisions of this Agreement; and the Recipient hereby acknowledges that the Disclosing Party is entitled to seek, in accordance with all legal requirements, any preliminary or *ex parte* applications for such relief to any court of competent jurisdiction. The Disclosing Party shall be reimbursed for all costs and expenses, including reasonable legal fees, incurred in enforcing the obligations of Recipient, its affiliates or its or their Representatives, hereunder, provided that a court of competent jurisdiction has found in a final judgment that the Recipient has been in breach of its obligations hereunder. Such remedies shall not be deemed to be exclusive remedies for the breach of this Agreement but shall be in addition to all other remedies at law or in equity. Recipient shall be responsible for any unauthorized use or disclosure of any Confidential Information by any person referred to in Section 4(a) or 4(b) and Disclosing Party will not be required to first assert a claim against any of such persons as a condition of seeking or obtaining a remedy against the Recipient.
9. **Nondisclosure of this Agreement.** Subject to Section 4 above, neither the Recipient nor any of its affiliates, or any of its or their Representatives shall disclose to any third party the terms and conditions of this Agreement or the transactions that are the subject of this Agreement, without the Disclosing Party's prior written consent. Nothing contained herein shall be deemed to prevent disclosure of any of the terms and conditions of this

Agreement or the transactions that are the subject of this Agreement (a) to the extent necessary to enforce this Agreement, or (b) if, in the written opinion of Recipient's legal counsel addressed to Disclosing Party, such disclosure is legally required to be made in a judicial, administrative, or governmental proceeding pursuant to a subpoena or other applicable order pursuant to a request of its regulators; provided, however, Recipient shall to the extent legally permitted give the Disclosing Party prompt written notice before disclosing any of the terms and conditions of this Agreement or the transactions that are the subject of this Agreement in any such proceeding and, in making such disclosure, Recipient shall to the extent legally permitted disclose only that portion thereof required to be disclosed and shall take all reasonable efforts to preserve the confidentiality thereof.

10. **Term.** The rights and obligations of Disclosing Party contained in this Agreement shall terminate [two (2) years] after the date of execution of this Agreement; provided, however, that such termination shall not affect the rights, powers, or remedies of Disclosing Party, or restrict or otherwise limit any cause of action or claim arising from any breach of or failure to perform any duty or obligation under this Agreement by Recipient, its affiliates, or any of its or their Representatives, prior to such termination.
11. **Severability.** If any provision of this Agreement is invalid or unenforceable in any jurisdiction, such provision shall be fully severable from this Agreement and the other provisions hereof shall remain in full force and effect in such jurisdiction and the remaining provisions hereof shall be liberally construed to carry out the provisions and intent hereof. The invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction, nor shall the invalidity or unenforceability of any provision of this Agreement with respect to any person or entity affect the validity or enforceability of such provision with respect to any other person or entity.
12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the People's Republic of China without giving effect to the conflict of laws provisions thereof.
13. **Notices.** All notices and other communications required under this Agreement to be in writing shall be addressed to the parties at the following address or fax number or to such other address or fax number of which a party may from time to time notify the other party pursuant hereto:

in the case of Disclosing Party:

**Wuxi Suntech Power Co., Ltd.**

17-6 Changjiang South Road

New District, Wuxi

Jiangsu Province 214028

People's Republic of China

Attention:

Fax No.:

in the case of Recipient:

**IPS Ltd., 33 Jije-dong, Pyeongtaek-city, Gyeonggi-do, Republic of Korea**

Receipt of any such notice or communication shall be deemed to occur on the date of delivery thereof, if delivered, and on the day of telecopying, if telecopied.

**14. Assignment and Transfer.** The Recipient may not assign, pledge, or otherwise transfer its rights or delegate its duties or obligations under this Agreement without the prior written consent of the Disclosing Party. The Disclosing Party may assign or otherwise transfer its rights and delegate its duties or obligations under this Agreement without the consent of the Recipient in connection with a sale or other transfer of all or substantially all of its assets, or the sale or other transfer of any assets which are the subject of the Confidential Information. In addition, with notification to the Recipient the Disclosing Party may grant a security interest in this Agreement without the consent of the Recipient in connection with granting liens on or security interests in all or substantially all of its assets or any assets which are the subject of the Confidential Information, and this Agreement may be assigned upon foreclosure of such a security interest or transfer in lieu thereof without the consent of the Recipient.

**15. Entire Agreement.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter thereof and supersedes all negotiations, prior discussions, or prior agreements and understandings relating to such subject matter. Neither this Agreement nor the parties' performance hereunder shall be deemed to create any special relationship or obligations between the parties other than those expressly set forth herein, and no implied covenants shall apply to this Agreement other than those of good faith and fair dealing.

**16. Miscellaneous.** This Agreement may not be altered or amended, nor may any rights hereunder be waived, except by an instrument in writing and executed by the party or parties to be charged with such amendment or waiver. No waiver of any term, provision, or condition of this Agreement shall be deemed to be, or construed as, a further or continuing waiver of any such term, provision, or condition, or as a waiver of any other term, provision, or condition hereof. To the extent the parties have deemed necessary, they have consulted with their legal, tax, financial, and accounting advisors with respect to the subject matter of this Agreement. Pronouns in masculine, feminine, and neuter

gender shall be construed to include any other gender. Words in the singular form shall be construed to include the plural, and words in the plural form shall be construed to include the singular, unless the context otherwise requires. The headings used in this Agreement are inserted for convenience only and shall be disregarded in construing this Agreement. Recipient hereby represents and warrants to Disclosing Party that the person executing this agreement on behalf of Recipient has the authority to act for and to bind Recipient to this Agreement and that this Agreement is a valid and binding obligation of Recipient. This Agreement shall be binding upon the parties hereto and, except as otherwise prohibited, their respective successors and assigns. Except for the Recipient and the Disclosing Party, and their permitted successors and assigns, nothing in this Agreement, express or implied, is intended to confer upon any other entity or person any benefits, rights, or remedies. This Agreement may be executed in counterparts and shall become operative when each party has executed and delivered at least one counterpart.

This Agreement may be delivered by facsimile or similar transmission, and a facsimile or similar transmission evidencing execution shall be effective as a valid and binding agreement between the parties for all purposes.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

**WUXI SUNTECH POWER CO., LTD.**

By: Jason Zhu

Name: Jason Zhu  
Title: Cell Tech Manager  
Corp. Sourcing Manager  
(non-Silicon)

**IPS LTD.**

By: JJ

Name: Kim Kwang Ho  
Title: Senior Vice President