

Attachment 8

**Pro Forma Confidentiality Deed signed prior to release of Information
Memorandum**

See attached

25/03/97 17:07 EPIC ENERGY PTY LTD + GLENISIDE

61 7 3218 1658 NO.454 HAZZLE

Annexure B

SALE OF THE DAMPIER TO BUNBURY NATURAL GAS PIPELINE

CONFIDENTIALITY UNDERTAKING

JACKSON McDONALD
Barristers & Solicitors
St George's Centre
81 St George's Terrace
PERTH WA 6000
Tel: (08) 9321 2144
Fax: (08) 9321 2673

SKEA
NELSON & HAGER
Barristers & Solicitors
Level 13 Griffin Centre
28 The Esplanade
PERTH WA 6000
Tel: (08) 9321 5844
Fax: (08) 9321 5866

EE.014.042



61 7 3218 1658 NO.454 HAZZLE

SEP 08 17:15:25

F-066 T-368 P-002

PERTH WA 6000

+6193227162

P.2/15

NOV 25 '97 10:10PM EPIC ENERGY 61 8 8379 0151
NOV 24 '97 10:21PM EPIC ENERGY 61 8 8379 0151
25/03/97 17:07

Confidentiality Undertaking

THIS DEED POLL is made on the data specified in item 1 of the Schedule hereto, by the person whose name and address appears at item 2 of the Schedule.

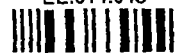
RECITALS:

- A. The State wishes to effect the sale of the DBNGP Assets.
- B. Certain persons ("Candidates") have indicated to the State that they are considering participating in the Proposed Sale.
- C. Candidates may be provided with or given access to Confidential Information for the purpose of considering whether to participate in the Proposed Sale, and to conduct and pursue any such participation ("Purpose").
- D. The Covenantees require the Candidates, and all persons whom each Candidate proposes, and considers it necessary, to give or make Confidential Information available for the Purpose, to provide confidentiality undertakings in the form of this Deed.
- E. The person whose name and address appears at item 2 of the Schedule ("Covenantor") is a person referred to in Recital D, and who by this Deed now makes the promises, undertakings, acknowledgments and warranties contained herein for the benefit of the Covenantees.
- F. In this Deed, the Candidate is Epic Energy Pty Ltd.

OBLIGATIONS

- i. The Covenantor hereby covenants with the Covenantees that the Covenantor will:
 - (a) subject to clause 2, keep strictly secret and confidential the Confidential Information and will not divulge or disclose in any manner whatsoever the Confidential Information to any person, or use the Confidential Information, other than strictly for the Purpose;
 - (b) exercise all endeavours to ensure that any person who has executed a confidentiality undertaking pursuant to clause 2 of this Deed will not commit or allow to be committed a breach of the confidentiality undertaking signed by that person;
 - (c) not reproduce, copy or transcribe, nor allow to be reproduced, copied or transcribed, in any form the Confidential Information, except where, and then only to the extent, reasonably necessary for the purpose of assisting the Candidates for the Purpose;

EE.014.043



P.3/16
P.3/15
25/08/97 15:25

4-865 1-368 P-880

FREEMILLS P&M

4519327152

NOV 26 '97 10:10AM EPIC ENERGY 61 8 8379 0151
NOV 24 '97 10:21AM EPIC ENERGY 61 8 8379 0151
25/08/97 17:28

- (d) if directed by the Covenantors, or either of them, immediately return to the Covenantors, or destroy as they direct, all original documents containing any Confidential Information and any copies of those documents and remove from electronic, magnetic or other form of non-tangible storage all Confidential Information, including in all cases such Confidential Information where combined with any other information, and exercise all endeavours to ensure that any person referred to in clause 2 who has executed a confidentiality undertaking similarly complies in respect of Confidential Information disclosed to them, and certify in writing to the Covenantors (in the case of a Covenantor that is a corporation, signed by a director) that the Covenantor has discharged its obligations under this clause;
- (e) ensure that the Confidential Information is stored in any manner or form which the Covenantors may reasonably require from time to time;
- (f) maintain (unless the Covenantor's employer maintains) an up to date register of all persons to whom the Covenantor has disclosed Confidential Information, and must immediately provide a copy of that register to the Covenantors whenever requested; and
- (g) not, without the prior written consent of the Covenantors or either of them, make any enquiries of or hold any discussions with any representatives, directors, employees, officers, financiers, customers, suppliers or consultants of the Covenantors, or any union, in connection with the Confidential Information, the Purpose or the Proposed Sale.

2. The Covenantor may disclose the Confidential Information to an employee, servant, director, adviser, consultant, agent or financier of the Candidate who is assisting the Covenantor for the Purpose, and to any employee of such adviser, consultant, agent or financier involved in assisting the Candidate for the Purpose, but only if prior to any such disclosure:

- (a) the name and function of the person to whom disclosure of Confidential Information is to be made has been notified in writing to the Covenantors by the Covenantor and approved in writing by the Covenantors;
- (b) that person has been informed by the Covenantor about the confidential nature of the Confidential Information;
- (c) that person is a person whom the Covenantor considers it necessary to disclose the Confidential Information for the purposes of assisting the Candidate for the Purpose; and
- (d) that person has executed and delivered to the Covenantors a confidentiality undertaking in substantially the same form as this Deed.

EE.014.044



1. 000000000000 1. 000

3. The Covenantor undertakes that if the Covenantor is compelled to disclose any Confidential Information, or otherwise proposes to disclose any of the Confidential Information because of a law or an order of a court or tribunal, the Covenantor:
 - (a) will provide prompt written notice to the Covenantees of the same in order that the Covenantees may seek a protective order, exemption from production or other appropriate remedy;
 - (b) will only disclose the relevant Confidential Information which there is a legal compulsion to disclose; and
 - (c) will provide the Covenantees with all reasonable assistance and co-operation which they consider necessary to prevent the disclosure of the relevant Confidential Information.

4. The Covenantor acknowledges that the Confidential Information given or made available to the Covenantor contains information which is confidential to the Covenantees or either of them and the improper use or disclosure of that Confidential Information may cause loss or damage to either or both of the Covenantees. In the event of a breach or threatened breach of the terms of this Deed by the Covenantor, the Covenantees or either of them will be entitled to an injunction restraining the Covenantor from committing any or any further breach of this Deed without having to show or prove any actual damage sustained by the Covenantees or either of them.

5. The Covenantor hereby agrees with each of the Covenantees to indemnify and keep indemnified the Covenantees or either of them from and against any loss or expense of any nature whatsoever, including consequential loss, which the Covenantees or either of them may suffer or incur and arising directly or indirectly from any breach by the Covenantor of the terms of this Deed, or, in the case of a person referred to in clause 2, of the terms of a confidentiality undertaking signed by the relevant person.

6. The Covenantor must promptly notify the Covenantees if it becomes aware of any suspected or actual unauthorised access, use, copying, disclosure, damage or destruction by any person to whom it has disclosed all or any part of the Confidential Information, or any person who becomes aware of the Confidential Information in an unauthorised way, and must (without prejudice to any of its other obligations under this Deed) give the Covenantees all reasonable assistance in connection with any proceedings which the Covenantees may institute against that person for breach of confidence or otherwise.

EE.014.045



11/26/97 17:08

09/09/97 17:09

EPIC ENERGY PTY LTD - GLENSIDE

61 7 3218 1658 NO.494 P006/0:

7. The Covenantor acknowledges and agrees that:

- (a) the Confidential Information is made available to it on the condition that it does not purport to contain all the information that a Candidate may require for the Purpose or the Proposed Sale, including, without limitation, any evaluation by the Covenantor of the DBNGP Assets, and that the Covenantor will conduct, and will rely on, its own independent investigation and analysis of the DBNGP Assets and the Confidential Information, and will not rely on the Confidential Information in its evaluation of the DBNGP Assets or for any other purpose;
- (b) the Covenantors, or either of them, do not make any representations or give any warranties, express or implied, as to the accuracy, reliability or completeness of the Confidential Information, and jointly and severally disclaim all liability, direct or indirect (and whether or not arising out of the negligence, default or lack of care of the Covenantors or either of them) for any loss or damage (whether foreseeable or not) suffered by the Covenantor or any other person arising out of, or in connection with, any use of, or, contrary to the terms of this Deed, reliance by any of them on the Confidential Information;
- (c) the completion and implementation of the Proposed Sale is subject to the required new legislation being enacted, and required regulations not being disallowed, by the Parliament of the State of Western Australia ("Parliament"), and that it is the intention of the Government of Western Australia ("Government") to submit to the Parliament that new legislation for enactment, and to lay before the Parliament the new regulations, to enable the Proposed Sale to be completed and implemented in the manner proposed by the Government, and that no representation or warranty is made by the Covenantors or either of them that the intended new legislation will be passed or that the intended new regulations will not be disallowed by the Parliament, or, if passed or not disallowed, that the intended new legislation or regulations will be in the form proposed by the Government;
- (d) the Covenantor irrevocably waives any right to claim compensation for loss or damage against the Covenantors or either of them of any nature whatsoever, including consequential loss, which the Covenantor may suffer or incur and arising directly or indirectly arising out of, or in connection with, any use or, contrary to the terms of this Deed, reliance by the Covenantor or any other person of any of the Confidential Information or any change to the Proposed Sale under clause 7(g);
- (e) any Confidential Information provided prior to the execution of this Deed by the Covenantors or by any person acting on behalf of them or any of them, to the Covenantor, or to an employer, servant, director, adviser, consultant, agent or financier of the Covenantor, or any employee of such adviser, consultant, agent or financier, was imparted

EE.014.046



L:VCEVCEB208_1.upe

61833227152

FREEMILLS PERTH

-6193227152

17:30

08/09/97

NOV 26 '97 10:12AM EPIC ENERGY 61 8 8379 0151

P.6/16

F-066 1-368 P-006 1-59 09 15:29

09/09/97 17:18

EPIC ENERGY PTY LTD -> GLENSIDE

61 7 3218 1658 NU.400 100/11

in confidence and that any such information shall be deemed to be Confidential Information and subject to the terms of this Deed as if it were disclosed as Confidential Information to any such persons after the date of this Deed by the Covenantors;

- (f) the Covenantor must at all times exercise its own independent care, skill and judgment in determining:
 - (i) the manner in which any Confidential Information which is made available to the Covenantor during the Proposed Sale is at any time relied on, not relied on, used, not used or presented by the Covenantor;
 - (ii) the manner in which any information, including Confidential Information, which is independently taken, derived or developed by the Covenantor from the Confidential Information is at any time relied on or not relied on, used or not used, or presented, by the Covenantor;
 - (iii) the manner in which any assessment, opinion or conclusion independently taken, derived, developed or made by the Covenantor from Confidential Information is at any time relied on or not relied on, used or not used, or presented, by the Covenantor;
- (g) the Covenantees, the Government or the GPSSC are free, at any time and from time to time, to determine and change the procedures that will apply in connection with the Proposed Sale, or suspend or cancel the Proposed Sale, without any obligation to provide notice or reasons to any person and without liability on the part of the Covenantees, the Government or the GPSSC to any person for costs or claims of any nature whatsoever;
- (h) there is no arrangement or understanding of any nature whatsoever between the Covenantor and the Covenantees, the Government or the GPSSC or any of them, or any person acting on behalf of any of them, as to whether the Proposed Sale will involve the Candidate or that the DENGFP Assets in whole or part will be sold to the Candidate or at all, and that the Covenantees have no obligation to accept any Bid whether or not the Bid represents the highest price offered;
- (i) the Covenantees retain an absolute discretion as to the Confidential Information that they may disclose or make available to the Covenantor or any other person and that the Covenantees may:
 - (i) impose additional conditions subject to which Confidential Information may be disclosed to the Covenantor or any other person, provided that, if the Covenantor disagrees with any of

EE.014.047



10/11/97 10:12AM

SEP 09 '97 15:28

F-066 T-350 P-007

FRESHILLS PERM

-6193227162

P.7/16

NOV 26 '97 10:12AM EPIC ENERGY 61 8 8379 0151

the additional conditions, the Covenantor may by notice to the Covenantees terminate its participation in the Proposed Sale and shall simultaneously return all of the Confidential Information and shall act in accordance with any direction received from the Covenantees or either of them under clause 1(d);

(a) nominate to which persons disclosure of any such Confidential Information may or may not be made, the locations at which any such Confidential Information in a tangible form may be kept or retained and the extent to which or the form in which any such Confidential Information may be made available; and

(ii) without limiting clause 7(i)(i) above, if required by a person to whom either or any of the Covenantees owe a duty of confidentiality in respect of Confidential Information (including, without limitation, Alcoa of Australia Limited, Epic Energy Pty Ltd and Westfarmers LPG Pty Ltd), require the Covenantor to execute a further confidentiality undertaking in the form approved by that person in respect of such Confidential Information, provided that, if the Covenantor disagrees with any of the additional conditions, the Covenantor may by notice to the Covenantees terminate its participation in the Proposed Sale and shall simultaneously return all of the Confidential Information and shall act in accordance with any direction received from the Covenantees or either of them under clause 1(d).

8. The Covenantor acknowledges that certain of the Confidential Information may comprise information or materials in respect of which the Covenantees, their officers, employees or advisers may at any time wish to claim legal professional privilege and the Covenantor undertakes that it, and that the Covenantor will exercise all endeavours to ensure that any person referred to in clause 2, will not at any time take any action, or permit any action to be taken by another person, with the purpose of defeating such claim of legal professional privilege by reason that its disclosure pursuant to this Deed has deprived that Confidential Information of the requisite character of confidentiality.

9. The Covenantor warrants that it has full legal capacity to provide the promises, undertakings, acknowledgments and warranties contained herein.

10. Where the Covenantor is not a natural person, the Covenantor warrants that its execution of this Deed is in the proper form and that it believes and intends that it will be bound by the provisions hereof.

EE.014.048



61-1-3218-1658-NO.454-P000/2

SEP 09 09 15:23

F-066 T-368 P-000

FRESHILLS PERM

+6193227162

P.8/16 P.A/15

NOV 26 97 10:12AM EPIC ENERGY 61 8 8379 0151
NOV 24 97 10:23AM EPIC ENERGY 61 8 8379 0151
08/09/97 17:31 +6193227162

11. The Covenantor promises to notify the Covenantees immediately if any warranty contained in this Deed ceases to be true and immediately if any promise, acknowledgment or undertaking contained in this Deed is breached or is not performed as and when required by this Deed to be performed.

12. The Covenantor acknowledges and agrees that the promises, undertakings, acknowledgments and warranties contained herein are for the benefit of the Covenantees and may be pleaded by any person entitled to the benefit of this Deed in bar to any claim by the Covenantor or any person claiming through the Covenantor.

13. The Covenantor agrees that:

(a) the obligations of confidence on the part of the Covenantor in this Deed shall continue:

(i) in the case of Confidential Information in respect of which any of the Covenantees owes a duty of confidentiality to any person, until the last to occur of the following: -

(A) 3 years from the date hereof;

(B) the date the duty of confidentiality expires or is discharged; and

(ii) in the case of all other Confidential Information, for a period of 3 years from the date hereof,

notwithstanding any withdrawal of the Candidate from, or that the Candidate is not selected to participate in any stage of, the Proposed Sale or any sale of, or decision not to sell, the DBNGP Assets to any person and that in all other respects the terms and conditions of this Deed, including, without limitation, the warranties, indemnities, promises, acknowledgments and undertakings, shall continue;

(b) if the Candidate notifies the Covenantees that it is withdrawing from, or the Candidate is not selected to participate in any stage in, the Proposed Sale, the Covenantor shall promptly return all of the Confidential Information and shall act in accordance with any direction received from the Covenantees or either of them under clause 1(d).

AND THE PROVISIONS of this Deed will be construed and enforced in accordance with the following principles:

14. "Alinta Gas" means the Gas Corporation, a body corporate constituted by the Gas Corporation Act 1994 of Level 7, 1 William Street, Perth, Western Australia.

EE.014.049



10:139M EPIC ENERGY PTY LTD

15. "Bid" means an indicative or final offer or tender to buy the DBNGP Assets or any part of them by any person.

16. "Confidential Information" means:

(a) the terms of this Deed, any Information Memorandum and the information contained in it and any letter accompanying any Information Memorandum, and all other information given or made available to the Covenantor or any person acting on behalf of the Covenantor in connection with the Purpose or Proposed Sale;

(b) all other information relating to the Purpose or Proposed Sale, including, without limitation, information relating to any evaluation process in respect of the DBNGP Assets, the timetable for the Proposed Sale, Bid rules, any Bid, whether or not a Candidate is, was or has withdrawn from being involved in the Proposed Sale, details of the negotiation of any contract relating to the sale of the DBNGP Assets and the terms of such contract, and any assessment, opinion or conclusion taken, derived, developed or made by any person from any Confidential Information; and

(c) Intellectual Property Rights in the information and knowledge referred to in paragraphs (a) and (b),

except for:

(d) any information which was in the public domain prior to its disclosure to the Covenantor or, which after such disclosure, enters the public domain through no act or omission of the Covenantor or any of the persons referred to in clause 2 of this Deed;

(e) any information provided to the Covenantor (without restriction as to its use or disclosure by the Covenantor) by a third party who is legally entitled to possess the Confidential Information and provide it to the Covenantor on such basis.

17. "Covenantors" means the State and AlintaGas, except in clause 7, in which clause it also includes AlintaGas' directors and all of the employees, external consultants and advisers of the Covenantors or any of them.

18. "DBNGP" means the Dampier to Bunbury Natural Gas Pipeline owned and operated by AlintaGas.

19. "DBNGP Assets" means the DBNGP together with the related assets, liabilities, rights and obligations which the State intends to offer for sale.

EE.014.050



L: 1465104012201.7.000

+6193227162

FREEMILLS PERTH

+6193227162

17:32

09/29/97

NOV 26 '97 10:13AM EPIC ENERGY 61 8 8379 0151

P.10/15

SEP 09 '97 15:38

F-066 T-360 P-010

20. "GPSSC" means the Gas Pipeline Sale Steering Committee.
21. "Information Memorandum" means any document described as an information memorandum, or which otherwise deals with or contains information regarding the Proposed Sale, which has been or may be made available in connection with the Proposed Sale.
22. "Intellectual Property Rights" means any rights in relation to any copyright, trade mark, design, drawing, patent, know-how, secret process and any other similar proprietary rights and the rights to the registration of the rights, whether created, formed or arising before or after the date of this Deed.
23. "person" will be taken to include a body corporate, an unincorporated association, a firm or partnership (whether limited or unlimited) and an authority or organisation notwithstanding that any of them may not be legal persons and includes a person's executors, administrators, heirs, successors and assigns.
24. "Proposed Sale" means the proposed sale of the DBNGP Assets and includes, without limitation:
- (a) the entire process and each of the stages of that process by which the sale of the DBNGP Assets is conducted, effected or implemented;
 - (b) the sale of shares in a company which owns all or any part of the DBNGP Assets or is otherwise associated with the operation and maintenance of the DBNGP Assets.
25. "State" means the State of Western Australia, including, without limitation, any representative of the Crown in right of the State of Western Australia, or any minister, government department, statutory authority or governmental officer, municipal or local authority or instrumentality of the State, or any person exercising or purporting to exercise powers conferred under laws of the State of Western Australia.
26. A reference to the publishing or disclosing of information will be taken to include a reference to the dissemination or communication of that information in any manner or form whatsoever.
27. A reference to the copying or storage of information will be taken to refer to any form of reproduction, copying or storage, including, without limitation, reproduction, copying or storage in electronic, electronically assisted, or magnetic form or microform.

EE.014.051



09/09/97 17:12

SEP 29 '97 15:31

F-066 T-360 P-011

FRESHILLS PERTH

-6150227162

P.11/15

NOV 26 '97 10:14AM EPIC ENERGY 61 8 8379 0151

+6193227162

17:32

09/09/97

- 28. A reference to Confidential Information includes a reference to the whole or part thereof, and extends to include the Intellectual Property Rights in the Confidential Information.
- 29. Where two or more persons undertake an obligation or give a warranty, they do so jointly and severally, and an obligation or warranty in favour of two or more persons benefits them jointly and severally. A word importing a gender includes every other gender.
- 30. This Deed will be governed by and construed and take effect in accordance with the laws of Western Australia and the applicable laws of the Commonwealth.
- 31. The waiver of any right arising from a breach of this Deed or of any right, power, authority, discretion or remedy arising upon default under this Deed must be in writing and signed by the party granting the waiver. A failure or delay in exercise, or partial exercise, of a right arising from a breach of this Deed, or a right, power, authority, discretion or remedy created or arising upon default under this Deed, does not result in a waiver of that right, power, authority, discretion or remedy.
- 32. Any notice or consent required to be given under this Deed must be in writing and shall be deemed to have been duly made or given if sent by facsimile clearly marked "urgent", to a person at the following destinations (and is deemed to have been received on the date of transmission provided the sender's facsimile machine produced a simultaneous report of complete and satisfactory transmission):

(a) The State and AlintaGas:

c/- GPSSC Working Group
15th Floor, Griffin Centre
The Esplanade
PERTH WA 6000

Facsimile No: (618) 9486 3199
Attention: Mr G Baker

(b) Co-ventor:

See attached Schedule A, page 13.

EE.014.052



11/16/2000 10:00:00 AM

SEP 08 17:15:33

F-866 T-358 P-812

FREEMILLS PERTH

6153227162

P.12/16

+6150227162

17:33

09/09/97

NOV 26 10:14 AM EPIC ENERGY 61 8 8379 0151

08/09/97 17:33



EE.014.053

(Without address)
14 Theunston Road, Church St. Sec 1

(Without name)
Julie Korte

(Without signature)
[Signature]

BY
AT
ON 25 NOVEMBER, 1997
in the presence of
Adele

SIGNED, SEALED AND DELIVERED

[Signature]
F. J. KITE, PARTNER EASTA BANK

EXECUTED AS A DEED

EE.014.054



Item 2

Item 1

ADKAZDE, SA 5000.

91 KING WILLIAM ST.

FIRST & YONGE

25 NOVEMBER, 1997

Item 2

Item 1

SCHEDULE

SCHEDULE A

Item 1 25 NOVEMBER 1997
Date

Item 2 Covenantor ERNST & YOUNG
91 KING WILLIAM ST.
ADELAIDE, SA 5000.

Name	Signature	Witness	Witness Signature	Witness Address
Bronte Daniel	<i>[Signature]</i>	JULIE RODATO	<i>[Signature]</i>	14 PALMESTON RD. UNLEY SA 5061
Julie Rodato	<i>[Signature]</i>	FRANK J. KITE	<i>[Signature]</i>	33 TRAVERS DRV. BENMONT 5066
Matthew Beeby	<i>[Signature]</i>	JULIE RODATO	<i>[Signature]</i>	14 PALMESTON ROAD UNLEY SA 5061
Peter WATTS	<i>[Signature]</i>	CATHERINE MILNE	<i>[Signature]</i>	GPO BOX 394 ADELAIDE SA 5001
Frank KITE	<i>[Signature]</i>	JULIE RODATO	<i>[Signature]</i>	14 PALMESTON ROAD UNLEY SA 5061

EE.014.055

