

# SECURITIES AND EXCHANGE COMMISSION

## FORM 8-K/A

Current report filing [amend]

Filing Date: **1999-06-02** | Period of Report: **1999-05-26**  
SEC Accession No. **0001047469-99-022822**

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### FILER

#### **POGO PRODUCING CO**

CIK: **230463** | IRS No.: **741659398** | State of Incorpor.: **DE** | Fiscal Year End: **1231**  
Type: **8-K/A** | Act: **34** | File No.: **001-07792** | Film No.: **99638911**  
SIC: **1311** Crude petroleum & natural gas

#### Mailing Address

*5 GREENWAY PLAZA SUITE  
2700  
P O BOX 2504  
HOUSTON TX 77046-0504*

#### Business Address

*5 GREENWAY PLAZA STE  
2700  
P O BOX 2504  
HOUSTON TX 77046-0504  
7132975017*

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K/A

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): MAY 26, 1999

POGO PRODUCING COMPANY  
(Exact name of registrant as specified in its charter)

DELAWARE (State or other jurisdiction of incorporation)	1-7792 (Commission File Number)	74-1659398 (IRS Employer Identification No.)
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5 GREENWAY PLAZA, P.O. BOX 2504 HOUSTON, TEXAS (Address of principal executive offices)	77252-2504 (Zip Code)
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Registrant's telephone number, including area code: (713) 297-5000

ITEM 5. OTHER EVENTS.

On May 26, 1999, Pogo Producing Company (the "Company") and Pogo Trust I (the "Trust") entered into an Underwriting Agreement covering the issue and sale by the Trust of 3,000,000 6 1/2% Quarterly Income Convertible Preferred Securities, Series A (liquidation amount \$50 per Preferred Security) (the "Preferred Securities"). The Preferred Securities were registered under the Securities Act of 1933, as amended, pursuant to the shelf registration statement (Registration Statement Nos. 333-75105, 333-75105-01 and 333-75105-02) of the Company, the Trust and Pogo Trust II.

## (c) Exhibits.

- 1.1 Underwriting Agreement, dated as of May 26, 1999, among the Company, the Trust and Goldman, Sachs & Co., Credit Suisse First Boston and Merrill Lynch, Pierce, Fenner & Smith Incorporated.
- 4.1 Amended and Restated Declaration of Trust, dated as of June 2, 1999, of the Trust.
- 4.2 Form of Preferred Security of the Trust (included in Exhibit 4.1 above).
- 4.3 Junior Subordinated Indenture, dated as of June 1, 1999, between the Company and Wilmington Trust Company, as Trustee.
- 4.4 Supplemental Indenture No. 1, dated as of June 1, 1999, providing for the issuance of the Company's 6 1/2% Junior Subordinated Debentures due 2029.
- 4.5 Form of 6 1/2% Junior Subordinated Debenture due 2029 (included in Exhibit 4.4 above).
- 4.6 Guarantee Agreement, dated as of June 2, 1999, relating to the Trust.
- 8.1 Opinion of Baker & Botts, L.L.P. as to certain tax matters.

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## SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

POGO PRODUCING COMPANY

Date: June 1, 1999

By: /s/ GERALD A. MORTON

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Gerald A. Morton



Pogo Producing Company  
Pogo Trust I

6.50% CUMULATIVE QUARTERLY INCOME CONVERTIBLE PREFERRED  
SECURITIES, SERIES A (LIQUIDATION AMOUNT \$50 PER QUIPS)  
FULLY AND UNCONDITIONALLY GUARANTEED BY  
POGO PRODUCING COMPANY, TO THE EXTENT SET FORTH IN  
THE GUARANTEE BY, AND CONVERTIBLE INTO  
THE COMMON STOCK, PAR VALUE \$1.00  
PER SHARE OF, POGO PRODUCING COMPANY

UNDERWRITING AGREEMENT

May 26, 1999

Goldman, Sachs & Co.,  
Credit Suisse First Boston  
Merrill Lynch & Co.  
Merrill Lynch, Pierce, Fenner & Smith  
Incorporated  
c/o Goldman, Sachs & Co.  
85 Broad Street,  
New York, New York 10004

Ladies and Gentlemen:

Pogo Trust I, a Delaware business trust, (the "Trust"), and Pogo Producing Company (the "Company") a Delaware corporation, as sponsor of the Trust and as guarantor, propose, subject to the terms and conditions stated herein, that the Trust issue and sell to the Underwriters named in Schedule I hereto (the "Underwriters") an aggregate of 3,000,000 6.50% Cumulative Quarterly Income Convertible Preferred Securities, Series A ("QUIPS"), representing undivided beneficial interests in the assets of the Trust and with a liquidation preference \$50 per QUIPS (the "Securities"). The Securities are convertible into common stock, par value \$1.00 per share, of the Company ("Common Stock"), including associated rights, and are guaranteed by the Company as to the payment obligations of the Securities, to the extent set forth in a guarantee agreement (the "Guarantee") between the Company and Wilmington Trust Company, as trustee (the "Guarantee Trustee"). The proceeds of the sale of the Securities will be invested by the Trust in 6.50% junior subordinated convertible debentures, Series A due 2029 (the "Debentures") of the Company to be issued pursuant to an indenture dated as of June 1, 1999 between the Company and Wilmington Trust Company, as trustee under the Indenture (the "Indenture Trustee"), as supplemented by Supplemental Indenture No. 1 (as so supplemented, the

"Indenture").

1. Each of the Company and the Trust represent and warrant to, and agree with, each of the Underwriters that:

(a) A registration statement on Form S-3 (File Nos. 333-75105; 333-75105-01 and 333-7501-02) (the "Initial Registration Statement") in respect of the Securities, the shares of the Common Stock issuable upon conversion thereof and the Debentures has been filed with the Securities and Exchange Commission (the "Commission"); the Initial Registration Statement and amendments numbers 1 and 2 thereto and any post-effective amendment thereto, each in the form heretofore delivered to you, and, excluding exhibits thereto but including all documents incorporated by reference in the prospectus contained therein, have been declared effective by the Commission in such form; other than a registration statement, if any, increasing the size of the offering (a "Rule 462(b) Registration Statement"), filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended (the "Act"), which became effective upon filing, no other document with respect to the Initial Registration Statement or document incorporated by reference therein has heretofore been filed with the Commission; and no stop order suspending the effectiveness of the Initial Registration Statement, any post-effective amendment thereto or the Rule 462(b) Registration Statement, if any, has been issued and no proceeding for that purpose has been initiated or, to the best of the Company's knowledge, threatened by the Commission (any preliminary prospectus included in the Initial Registration Statement or filed with the Commission pursuant to Rule 424(a) of the rules and regulations of the Commission under the Act, including the preliminary prospectus supplement dated May 17, 1999, are hereinafter called a "Preliminary Prospectus"; the various parts of the Initial Registration Statement and the Rule 462(b) Registration Statement, if any, including all exhibits thereto (but excluding any Forms T-1, as amended) and including (i) the information contained in the form of final prospectus filed with the Commission pursuant to Rule 424(b) under the Act in accordance with Section 5(a) hereof and deemed by virtue of Rule 430A under the Act to be part of the Initial Registration Statement at the time it was declared effective and (ii) the documents incorporated by reference in the prospectus contained in the Initial Registration Statement at the time such part of the Initial Registration Statement became effective, each as amended at the time such part of the Initial Registration Statement became effective or such part of the Rule 462(b) Registration Statement, if any, became or hereafter becomes effective, are hereinafter collectively called the "Registration Statement"; and such final prospectus, in the form first filed pursuant to Rule 424(b) under the Act, as will be supplemented by the final prospectus supplement thereto, is hereinafter called the "Prospectus"; and any reference herein to any Preliminary Prospectus or

the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Act, as of the date of such Preliminary Prospectus or Prospectus, as the case may be; any reference to any amendment or supplement to any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed after the date of such Preliminary Prospectus or Prospectus, as the case may be, under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and incorporated by reference in such Preliminary Prospectus or Prospectus, as the case may be; and any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of

the Exchange Act after the effective date of the Initial Registration Statement that is incorporated by reference in the Registration Statement;

(b) No order preventing or suspending the use of any Preliminary Prospectus has been issued by the Commission, and each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Act, and the rules and regulations of the Commission thereunder, and did not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; PROVIDED, HOWEVER, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter through Goldman, Sachs & Co. expressly for use therein;

(c) The documents incorporated by reference in the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Act or the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as applicable, and the rules and regulations of the Commission thereunder, and none of such documents contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and any further documents so filed and incorporated by reference in the Prospectus or any further amendment or supplement thereto, when such documents become effective or are filed with the Commission, as the case may be, will conform in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein in light of the circumstances in which they were

made not misleading; PROVIDED, HOWEVER, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter through Goldman, Sachs & Co. expressly for use therein;

(d) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement or the Prospectus will conform, in all material respects to the requirements of the Act and the rules and regulations of the Commission thereunder and do not and will not, as of the applicable effective date as to the Registration Statement and any amendment thereto and as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein not misleading; PROVIDED, HOWEVER, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter through Goldman, Sachs & Co. expressly for use therein;

(e) Neither the Company nor any of its subsidiaries has sustained since the date of the latest audited financial statements included or incorporated by reference in

the Prospectus any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Prospectus; and, since the respective dates as of which information is given in the Registration Statement and the Prospectus, there has not been any change in the capital stock (other than changes in the ordinary course of business in the issuance of shares of capital stock pursuant to the exercise of outstanding stock options under the Company's stock option plans) or long-term debt (except for changes in long-term debt that are not in excess of \$10 million in the aggregate) of the Company or any of its subsidiaries or any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, management, financial position, shareholders' equity or results of operations of the Company and its subsidiaries, otherwise than as set forth or contemplated in the Prospectus;

(f) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the state of Delaware, with all requisite corporate power and authority to own its properties and conduct its business as described in the Prospectus, and has been duly qualified as a foreign corporation for the transaction of



business and is in good standing under the laws of each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or be in good standing would not result in a material adverse change in the condition, financial or otherwise, or in the earnings or business affairs of the Company and its subsidiaries considered as one enterprise (a "Material Adverse Effect"), or is subject to no material liability or disability by reason of the failure to be so qualified in any such jurisdiction;

(g) The Trust has been duly formed and is validly existing as a business trust in good standing under the laws of the state of Delaware with all requisite trust powers and authority to own its property and conduct its business as described in the Prospectus. The Trust has conducted no business to date, other than as contemplated by this Agreement and the Trust Agreement (as defined below), and it will conduct no business in the future that would be inconsistent with the description of the Trust set forth in the Prospectus; the Trust is not a party to or bound by any agreement or instrument other than this Agreement, the Declaration of Trust dated March 17, 1999 among the Company, and the Trustees named therein, which will be amended and restated as contemplated by the Prospectus (the "Trust Agreement"), and any other agreements contemplated by the Trust Agreement; the Trust has no liabilities or obligations other than those arising out of the transactions contemplated by this Agreement, the Trust Agreement and as described in the Prospectus; the Trust is not and will not based on current law, be classified as an association taxable as a corporation for United States federal income tax purposes; and the Trust is not a party to or subject to any action, suit or proceeding of any nature;

(h) Each corporate "significant subsidiary" of the Company (as such term is defined in Rule 1-02 of Regulation S-X) (each a "Significant Subsidiary" and, collectively, the "Designated Subsidiaries") has been duly incorporated and is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, has corporate power and authority to own, lease and operate its

properties and to conduct its business as described in the Prospectus and is duly qualified as a foreign corporation to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect; all of the issued and outstanding capital stock of each Significant Subsidiary has been duly authorized and validly issued, is fully paid and non-assessable and (except for directors' qualifying

shares or shares representing an immaterial equity interest that are required under the laws of any foreign jurisdiction to be owned by others and except as otherwise set forth in the Prospectus) is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity; and none of the outstanding shares of capital stock of the Designated Subsidiaries was issued in violation of any preemptive or similar rights arising by operation of law, or under the charter or by-laws of any Significant Subsidiary or under any agreement to which the Company or any Significant Subsidiary is a party. The subsidiaries of the Company other than Designated Subsidiaries, considered in the aggregate as a single subsidiary, do not constitute a "significant subsidiary" as defined in Rule 1-02 of Regulation S-X;

(i) The Company has authorized, issued and outstanding capital stock as set forth in the Prospectus in the column entitled "Actual" under the caption "Capitalization," (except for subsequent issues, if any, pursuant to employee or director benefit plans referred to or referenced in documents incorporated by reference into the Prospectus or pursuant to the exercise of convertible securities or options referred to or incorporated by reference in the Prospectus) and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable; the shares of Common Stock initially issuable upon conversion of the Securities have been duly and validly authorized and reserved for issuance and, when issued and delivered in accordance with the provisions of the Securities, will be duly and validly issued, fully paid and non-assessable and will conform in all material respects to the description of the Common Stock contained in the Prospectus; and all of the issued shares of capital stock of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and (except for directors' qualifying shares and except as otherwise set forth in the Prospectus) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims;

(j) The Securities have been duly and validly authorized by the Trust Agreement and, when issued and delivered pursuant to this Agreement, will have been duly issued and, subject to the qualifications set forth herein, fully paid and non-assessable undivided beneficial interests in the assets of the Trust (except to the extent otherwise provided in Sections 3.12(c)(iv), 9.02 and 9.08 of the Trust Agreement) and the Securities will conform in all material respects to the description thereof in the Prospectus; the issuance of the Securities is not subject to preemptive or other similar rights; the Securities will have the rights set forth in the Trust Agreement; the Securityholders will be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware;

(k) The common securities of the Trust issued to the Company (the "Trust Common Securities") have been duly and validly authorized by the Trust Agreement and, when issued and delivered to the Company against payment therefor as set forth in the Trust Agreement, will be duly and validly issued and fully paid and non-assessable undivided beneficial interests in the assets of the Trust and will conform in all material respects to the description thereof contained in the Prospectus; the issuance of the Common Trust Securities is not subject to preemptive or other similar rights; and at the Time of Delivery (as defined in Section 4 hereof), all of the issued and outstanding Common Trust Securities will be directly or indirectly owned by the Company free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity;

(l) The issue and sale of the Securities by the Trust, the purchase of the Debentures by the Trust, the compliance by the Trust with all of the provisions of this Agreement and the transactions contemplated herein and in the Prospectus will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under (i) this Agreement or (ii) the Trust Agreement;

(m) The issue and sale of the Securities and the Common Trust Securities by the Trust, the issue by the Company of the Guarantee, the issuance and sale by the Company of the Debentures, and the compliance by each of the Trust and the Company with the provisions of this Agreement, the Trust Agreement, the Debentures, the Indenture and the Guarantee will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, nor will such action result in any violation of the provisions of the certificate of Incorporation or By-laws of the Company or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the issue and sale of the Securities or the consummation by the Company of the transactions contemplated by this Agreement, the Guarantee or the Indenture, except the registration under the Act of the Securities and the shares of Common Stock issuable upon conversion thereof, the listing of the Securities and the Common Stock issuable upon conversion of the Securities on the New York Stock Exchange, such as have been obtained

under the Trust Indenture Act and such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Securities by the Underwriters;

(n) Neither the Company nor any of its Significant Subsidiaries is in violation of its Certificate of Incorporation or By-laws or in default in the performance or observance of any material obligation, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound;

(o) The statements set forth in the Prospectus (1) under the caption

"Description of the QUIPS", "Description of Capital Stock", "Description of Debentures", and "Description of the Guarantee" insofar as they purport to constitute a summary of the terms of the Securities and the Common Stock, (2) under the caption "Federal Income Tax Consequences", and under the caption "Underwriting," insofar as they purport to describe the provisions of the laws and documents referred to therein, are accurate, complete and fair;

(p) Other than as set forth in the Prospectus (including the Company's Form 10-K for the year ended December 31, 1998 and Form 10-Q for the quarter ended March 31, 1999), there are no legal or governmental proceedings pending to which the Trust, or the Company or any of its subsidiaries is a party or of which any property of the Trust or the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a Material Adverse Effect on the Trust or on the Company and its subsidiaries; and, to the best of the Company's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others;

(q) The Debentures have been duly and validly authorized and, when executed and authenticated pursuant to the Indenture, and issued and delivered against payment therefor as contemplated by this Agreement will be duly executed, authenticated, issued and delivered and will constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their terms and entitled to the benefits of the Indenture, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and to general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); the Indenture has

been fully and validly authorized by the Company, is qualified under, and complies with, the Trust Indenture Act and, when duly executed and delivered by the Company and the Trustee, will constitute a valid and legally binding instrument of the Company, enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and to general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); and the Debentures and the Indenture will conform in all material respects with the descriptions thereof contained in the Prospectus;

(r) The Guarantee has been duly and validly authorized by the Company and, when executed and delivered by the Company as contemplated by this Agreement, will have been duly executed, issued and delivered, and will constitute a valid and legally binding obligation of the Company, enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); and the guarantee conforms in all material respects with the description thereof contained in the Prospectus;

(s) The Trust Agreement has been duly and validly authorized by the Company, is qualified under, and complies with, the Trust Indenture Act and when

validly executed and delivered by the Company and the trustees thereto, will constitute a valid and legally binding obligation of the Company, enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and to general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); and the Trust Agreement conforms in all material respects to the description thereof contained in the Prospectus;

(t) Neither the Company nor the Trust is and, after giving effect to the offering and sale of the Securities, will be an "investment company" or an entity "controlled" by an "investment company", as such terms are defined in the Investment Company Act of 1940, as amended (the "Investment Company Act");

(u) Arthur Andersen LLP, who have certified certain financial statements of the Company and its subsidiaries, are independent public accountants as required by the Act and the rules and regulations of the

Commission thereunder;

(v) The Company and its subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, "Governmental Licenses") issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct the business now operated by them, except where the failure to possess such Governmental Licenses, would not, singly or in the aggregate, have a Material Adverse Effect; the Company and its subsidiaries are in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, have a Material Adverse Effect; all of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not have a Material Adverse Effect; and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in a Material Adverse Effect;

(w) Each of the Company and its subsidiaries has  
(i) satisfactory title to its oil and gas properties, except for any defects in such title as would not reasonably be expected to have a Material Adverse Effect, (ii) good and marketable title to all other real property owned by it to the extent necessary to carry on its business, and (iii) good and marketable title to all personal property owned by it, in each case free and clear of all liens, encumbrances and defects except such as are described or incorporated by reference in the Prospectus or such as do not materially affect the value of the properties of the Company and its subsidiaries, considered as one enterprise, and do not interfere with the use made and proposed to be made of such properties, by the Company and its subsidiaries, considered as one enterprise; and all of the leases and subleases material to the business of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries holds properties described in the Prospectus, are in full force and effect, and neither the Company nor

any of its subsidiaries has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or its subsidiaries under any of the leases or subleases mentioned above, or affecting or questioning the rights of such the Company or any subsidiary thereof to the continued possession of the leased or subleased premises under any such lease or sublease;



(x) Except as described in the Prospectus or except for such matters as would not, singly or in the aggregate, result in a Material Adverse Effect, (A) neither the Company nor any of its subsidiaries is in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products (collectively, "Hazardous Materials") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "Environmental Laws"), (B) the Company and its subsidiaries have all permits, authorizations and approvals required under any applicable Environmental Laws and are each in compliance with their requirements, (C) there are no pending or, to the knowledge of the Company, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or its subsidiaries and (D) there are no events or circumstances that might reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or governmental body or agency, against or affecting the Company or its subsidiaries relating to Hazardous Materials or Environmental Laws;

(y) Within the preceding six months, none of the Trust, the Company or any other person acting on behalf of the Trust or the Company (other than the Underwriters, as to whom the Company makes no representation) has offered or sold to any person any Securities, or any securities of the same or a similar class as the Securities, other than Securities offered or sold to the Underwriters hereunder; and

(z) None of the transactions contemplated by this Agreement (including, without limitation, the use of the proceeds from the sale of the Securities) will violate or result in a violation of Section 7 of the Exchange Act, or any regulation promulgated thereunder, including, without limitation, Regulations G, T, U, and X of the Board of Governors of the Federal Reserve System.

2. Subject to the terms and conditions herein set forth, (a) the Trust and the Company agree that the Trust shall issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Trust, at a purchase price of \$50.00 per QUIPS, plus accrued distributions, if any, from June 2, 1999 to the Time of Delivery hereunder, the number of Securities set forth opposite the name of such Underwriter in Schedule I hereto; and (b) as compensation to the Underwriters for their commitments hereunder, and in view of the fact that the proceeds of the sale of the

Securities will be used by the Trust to purchase the Debentures of the Company, the Company at the Time of Delivery will

pay to Goldman, Sachs & Co., for the accounts of the several Underwriters, an amount equal to \$1.50 per Security by wire transfer of Federal (same day) funds for the Securities to be delivered by the Company hereunder at the Time of Delivery.

3. Upon the authorization by you of the release of the Securities, the several Underwriters propose to offer the Securities for sale upon the terms and conditions set forth in the Prospectus.

4. (a) (i) The Securities to be purchased by each Underwriter hereunder will be represented by one or more definitive global Securities in book-entry form which will be deposited by or on behalf of the Trust with The Depository Trust Company ("DTC") or its designated custodian. The Company will deliver each of the global Securities to Goldman, Sachs & Co. for the account of each Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the Trust's account at Bank of America, Dallas, Texas (Account No. 375-0015-300) (ABA No. 111-0000-12), by causing DTC to credit the Securities to the account of Goldman, Sachs & Co. at DTC. The Company will cause the certificates representing the Securities to be made available to Goldman, Sachs & Co. for checking at least twenty-four hours prior to the Time of Delivery (as defined below) at the office of DTC or its designated custodian (the "Designated Office"). The time and date of such delivery and payment shall be, with respect to the Securities, 9:30 a.m., New York City time, on June 2, 1999 or such other time and date as Goldman, Sachs & Co. and the Company may agree upon in writing. Such time and date for delivery of the Securities is herein called the "Time of Delivery".

(b) The documents to be delivered at the Time of Delivery by or on behalf of the parties hereto pursuant to Section 7 hereof, including the cross-receipt for the Securities and any additional documents requested by the Underwriters pursuant to Section 7(1) hereof, will be delivered at the offices of Baker & Botts, L.L.P., 910 Louisiana, Houston, Texas 77002 (the "Closing Location"), and the Securities will be delivered at the office of the DTC or its designated custodian (the "Designated Office") at the Time of Delivery. A meeting will be held at the Closing Location at 2:00 p.m., Houston time, on the Houston Business Day next preceding the Time of Delivery, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto. For the purposes of this Section 4, "Houston Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in Houston are generally authorized or obligated by law or executive order to close.

5. The Trust and the Company jointly and severally agree with



each of the Underwriters:

(a) To prepare the Prospectus in a form approved by you and to file such Prospectus pursuant to Rule 424(b) under the Act not later than the Commission's close of business on the second business day following the execution and delivery of this Agreement, or, if applicable, such earlier time as may be required by Rule 430A(a)(3) under the Act; to make no further amendment or any supplement to the Registration Statement or Prospectus prior to the Time of Delivery which shall be disapproved by you promptly after reasonable notice thereof; to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any

supplement to the Prospectus or any amended Prospectus has been filed and to furnish you with copies thereof; to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus is required in connection with the offering or sale of the Securities; to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or prospectus, of the suspension of the qualification of the Securities or the shares of Common Stock issuable upon conversion of the Securities for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or prospectus or suspending any such qualification, to promptly use its best efforts to obtain the withdrawal of such order;

(b) Promptly from time to time to take such action as you may reasonably request to qualify the Securities and the shares of Common Stock issuable upon conversion of the Securities for offering and sale under the securities laws of such jurisdictions as you may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction;

(c) Prior to 8:00 a.m., Houston time, on the Houston Business Day next succeeding the date of this Agreement and from time to time, to furnish the Underwriters with copies of the Prospectus in New York City in such quantities as you may reasonably request, and, if the delivery of a prospectus is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Securities and the shares of Stock issuable upon

conversion of the Securities and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made when such Prospectus is delivered, not misleading, or, if for any other reason it shall be necessary during such same period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus in order to comply with the Act, the Exchange Act or the Trust Indenture Act, to notify you and upon your request to file such document and to prepare and furnish without charge to each Underwriter and to any dealer in securities as many copies as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance; and in case any Underwriter is required to deliver a prospectus in connection with sales of any of the Securities and the shares of Common Stock issuable upon conversion of the Securities at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many copies as you may request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Act;

(d) To make generally available to its securityholders as soon as practicable, but in any event not later than eighteen months after the effective date of the Registration Statement (as defined in Rule 158(c)), an earnings statement of the Company and its subsidiaries (which

need not be audited) complying with Section 11(a) of the Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158);

(e) During the period of 90 days from the date hereof, not to sell, offer to sell, grant any option (excluding options granted under the Company's long-term employee incentive plans) for the sale of, or otherwise dispose of any Securities, Common Trust Securities or Debentures, any security convertible into or exchangeable into or exercisable for, the Securities, Common Trust Securities or the Debentures or any debt substantially similar to the Debentures or any equity securities substantially similar to the Securities or the Common Trust Securities (except as issued hereunder) or any Common Stock (except shares of Common Stock issuable upon the exercise of options granted under the Company's long term incentive plans) or any security convertible into or exchangeable into or exercisable for Common Stock or any equity security substantially similar to the Common Stock, without your prior written consent;

(f) To furnish to the holders of the Securities as soon as practicable after the end of each fiscal year an annual report (including a balance sheet and statements of income, shareholders' equity and cash flows of the Company and its consolidated subsidiaries certified by independent

public accountants) and, as soon as practicable after the end of each of the first three quarters of each fiscal year (beginning with the fiscal quarter ending after the effective date of the Registration Statement), consolidated summary financial information of the Company and its subsidiaries for such quarter in reasonable detail;

(g) During a period of two years from the effective date of the Registration Statement, to furnish to you copies of all reports or other communications (financial or other) furnished to shareholders, and to deliver to you as soon as they are available, copies of any reports and financial statements furnished to or filed with the Commission or any national securities exchange on which the Securities or any class of securities of the Company is listed;

(h) If the Company and the Trust elect to rely upon Rule 462(b), the Company shall file a Rule 462(b) Registration Statement with the Commission in compliance with Rule 462(b) by 10:00 p.m., Washington, D.C. time, on the date of this Agreement, and the Company shall at the time of filing either pay to the Commission the filing fee for the Rule 462(b) Registration Statement or give irrevocable instructions for the payment of such fee pursuant to Rule 111(b) under the Act;

(i) To file with the Commission such information on Form 10-Q or Form 10-K as may be required by Rule 463 under the Act and such information and exhibits on Form 8-K as may be required under the Act;

(j) To reserve and keep available at all times, free of preemptive rights, shares of Common Stock for the purpose of enabling the Company to satisfy any obligations to issue shares of its Common Stock upon conversion of the Securities;

(k) To use reasonable best efforts to list, subject to notice of issuance, the Securities and the shares of Common Stock issuable upon conversion of the Securities on the New York Stock Exchange (the "Exchange");

(l) To use the net proceeds received by it from the sale of the Securities, in the

case of the Trust, and the Debentures, in the case of the Company, as contemplated in this Agreement in the manner specified in the Prospectus as amended or supplemented under the caption "Use of Proceeds"; and

(m) In the case of the Company, to issue and deliver the Guarantee and the Debentures concurrently with the issuance and sale of the Securities.

6. The Trust and the Company jointly covenant and agree with the several Underwriters that they will pay or cause to be paid the following:

(i) the fees, disbursements and expenses of the Company's and the Trust's counsel and accountants in connection with the registration of the Securities and the shares of Common Stock issuable upon conversion of the Securities under the Act and all other expenses in connection with the preparation, printing and filing of the Registration Statement, any Preliminary Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Underwriters and dealers; (ii) the cost of reproducing any Agreement among Underwriters, this Agreement, the Trust Agreement, the Indenture, the Blue Sky and Legal Investment Memoranda, closing documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) all expenses in connection with the qualification of the Securities and the shares of Common Stock issuable upon conversion of the Securities for offering and sale under state securities laws as provided in Section 5(b) hereof, including the fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky and legal investment surveys; (iv) any fees charged by securities rating services for rating the Securities; (v) the filing fees incident to, and the fees and disbursements of counsel for the Underwriters in connection with, any required review by the National Association of Securities Dealers, Inc. of the terms of the sale of the Securities; (vi) the cost of preparing the Securities; (vii) the fees and expenses of the Trustee and any agent of the Trustee and the fees and disbursements of counsel for the Trustee in connection with the Indenture and the Securities; and (viii) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section. It is understood, however, that, except as provided in this Section, and Sections 8 and 11 hereof, the Underwriters will pay all of their own costs and expenses, including the fees and expenses of their counsel, transfer taxes on resale of any of the Securities by them, and any advertising expenses connected with any offers they may make.

7. The obligations of the Underwriters hereunder shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company and the Trust herein are, at and as of the Time of Delivery, true and correct, the condition that the Company and the Trust shall have performed all of its obligations hereunder theretofore to be performed, and the following additional conditions:

(a) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) within the applicable time period prescribed for such filing by the rules and regulations under the Act and in accordance with Section 5(a) hereof; if the Trust has elected to rely upon Rule 462(b), the Rule 462(b) Registration Statement shall have become effective by 10:00 p.m., Washington, D.C. time, on the date of this Agreement; no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or threatened by the Commission; and all

requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Vinson & Elkins L.L.P., counsel for the Underwriters, shall have furnished to you such written opinion or opinions (a draft of each such opinion is attached as Annex II(a) hereto), dated the Time of Delivery, with respect to various matters as you may reasonably request, and such counsel shall have received such papers and information as they may reasonably request to enable them to pass upon such matters;

(c) Richards, Layton & Finger, special Delaware counsel to the Trust and the Company, shall have furnished to you their written opinion (a draft of such opinion is attached as Annex II(b) hereto), dated the Time of Delivery, in form and substance satisfactory to you, to the effect that:

(i) The Trust has been duly created and is validly existing in good standing as a business trust under the Delaware Business Trust Act, and, under the Trust Agreement and the Delaware Business Trust Act, has the trust power and authority to own its properties and conduct its business as described in the Prospectus; and all filings required under the laws of Delaware with respect to the creation and valid existence of the Trust as a business trust have been made;

(ii) The Trust Agreement constitutes a valid and binding obligation of the Company and the trustees thereto; enforceable against the Company and the trustees thereof in accordance with its terms; and the Securities have the rights set forth in the Trust Agreement subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and to general equity principles;

(iii) Under the Trust Agreement and the Delaware Business Trust Act, the Trust has the trust power and authority to (a) execute and deliver, and to perform its obligations under this Agreement and (b) issue and perform its obligations under the Securities and the Common Trust Securities;

(iv) The execution and delivery by the Trust of this Agreement, and the performance by the Trust of its obligations hereunder, have been duly authorized by all necessary action on the part of the Trust and this Agreement has been duly authorized, executed and delivered by the Trust;

(v) The Securities have been duly authorized and validly issued; the Common Trust Securities have been duly and validly authorized by the Trust and are duly and validly issued and, subject to the qualifications set forth herein, fully paid and non-assessable beneficial interests in the assets of the

Trust; the holders of such Securities, as beneficial owners of the Trust, will be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware; provided that such counsel may note that such holders may be obligated, pursuant to the Trust Agreement, to (a) provide indemnity and/or security in connection with and pay taxes or governmental charges arising from transfers or exchanges of certificates and (b) provide security and indemnity in connection with requests of or directions to the Trustees to exercise its rights and powers under the Trust Agreement;

(vi) Under the Trust Agreement and the Delaware Business Act, the issuances of the Securities and the Common Trust Securities are not subject to preemptive or other similar rights;

(vii) No authorization, approval, consent or order of any Delaware court or Delaware governmental authority or agency is required to be obtained by the Trust solely in connection with the issuance and sale of the securities and the common securities; and

(viii) The holders of the Securities (other than those holders who reside or are domiciled in the State of Delaware) will have no liability for income taxes imposed by the State of Delaware solely as a result of their participation in the Trust, and the Trust will not be liable for any income tax imposed by the State of Delaware.

(d) Baker & Botts, L.L.P., counsel for the Company and the Trust, shall have furnished to you their written opinion (a draft of such opinion is attached as Annex II(d) hereto), dated the Time of Delivery, in form and substance satisfactory to you, to the effect that:

(i) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, with corporate power and authority to own its properties and conduct its business as described in the Prospectus;

(ii) This Agreement has been duly authorized, executed and delivered by the Company;

(iii) The Guarantee and the Debentures have been duly authorized, executed and issued by the Company and (assuming the due authentication thereof by the Trustee in accordance

with the terms of the Indenture) when delivered and paid for in accordance with the terms of the Underwriting Agreement, will constitute valid and legally binding obligations of the Company; the Debentures are entitled to the benefits provided by the Indenture; and the Guarantee, the Debentures and the Indenture conform as to legal matters in all material respects to the descriptions thereof in the Prospectus;

(iv) The Indenture has been duly authorized, executed and delivered by the Company and constitutes a valid and legally binding instrument, enforceable in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law); and the Indenture has been duly qualified under the Trust Indenture Act;

(v) No consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body is required for the issue and sale of the Securities being issued at the Time of Delivery or the consummation by the Company of the transactions contemplated by this Agreement, the Guarantee, or the Indenture, except such as have been obtained under the Act and the Trust Indenture Act, such as may be required under the Act in connection with the shares of Stock issuable upon conversion of the Securities and such consents, approvals,

authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Securities by the Underwriters;

(vi) The statements set forth in the Prospectus under the caption "Description of the Debentures" "Description of Capital Stock" and "Description of the QUIPS," insofar as they purport to describe legal matters, fairly present in all material respects the matters set forth therein;

(vii) The Company is not an "investment company" or an entity "controlled" by an "investment company", as such terms are defined in the Investment Company Act; and

(viii) The Registration Statement and the Prospectus and any further amendments and supplements thereto made by the Company prior to the Time of Delivery (other than (a) the financial statements and related schedules therein, including



the notes thereto and the auditor's report thereon, (b) the summary reserve report of Ryder Scott Petroleum Engineers contained therein, (c) the other financial and reserve information included or incorporated by reference therein and (d) the exhibits thereto, as to which such counsel need express no opinion) appeared on the face thereof as of the effective date of the Registration Statement to be appropriately responsive in all material respects to the requirements of the Act and the rules and regulations thereunder; although they do not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Registration Statement or the Prospectus, except to the extent stated in paragraph (vi) of this Section 7(d), no facts have come to such counsel's attention which lead such counsel to believe that as of its effective date, the Registration Statement or any further amendment thereto made by the Company prior to the Time of Delivery (other than (a) the financial statements and related schedules therein, including the notes thereto and the auditor's report thereon, (b) the summary reserve report of Ryder Scott Petroleum Engineers contained therein, (c) the other financial and reserve information included or incorporated by reference therein and (d) the exhibits thereto, as to which such counsel need not comment) contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading or that, as of its date, the Prospectus or any further amendment or supplement thereto made by the Company prior to the Time of Delivery (other than (a) the financial statements and related schedules therein, including the notes thereto and the auditor's report therein, (b) the summary reserve report of Ryder Scott Petroleum Engineers contained therein, (c) the other financial and reserve information included or incorporated by reference therein and (d) the exhibits thereto, as to which such counsel need not comment) contained an untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and they do not know of any contracts or other documents of a character required to be filed as an exhibit to the Registration Statement or required to be incorporated by reference into the Prospectus or required to be described in the Registration Statement or the Prospectus which are not filed or incorporated by reference or described.

In rendering such opinion, such counsel may state that they express no opinion as to the laws of any jurisdiction other than the federal laws of the United States, the laws of the State of New York and the General Corporation



(e) Baker & Botts, L.L.P., special tax counsel for the Company and the Trust, shall have furnished to you their written opinion, dated the First Time of Delivery, in form and substance satisfactory to you, to the effect that such firm confirms its opinion set forth in the final supplemental prospectus under the caption "Federal Income Tax Consequences."

(f) Gerald A. Morton, Vice President - Law and Corporate Secretary of the Company, shall have furnished to you his written opinion (a draft of such opinion is attached as Annex 11(e) hereto), dated the Time of Delivery, in form and substance satisfactory to you to the effect that:

(i) The Company has an authorized capitalization as set forth in the Prospectus, and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable; and the shares of Common Stock initially issuable upon conversion of the Securities have been duly and validly authorized and reserved for issuance and, when issued and delivered in accordance with the provisions of the Securities, will be duly and validly issued and fully paid and non-assessable, and will conform in all material respects to the description of the Common Stock contained in the Prospectus;

(ii) The Company has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification or except where any such failure to qualify would not have a Material Adverse Effect;

(iii) Each Significant Subsidiary of the Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of its jurisdiction of incorporation; and all of the issued shares of capital stock of each such subsidiary have been duly and validly authorized and issued, are fully paid and validly xand (except for directors' qualifying shares or shares representing an immaterial equity interest that are required under the laws of any foreign jurisdiction to be owned by others and except as otherwise set forth in the Prospectus) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims (such counsel being entitled to rely in respect of the opinion in this clause upon opinions of local counsel and in respect of matters of fact upon certificates of officers of the Company or its subsidiaries, provided that such counsel shall state that they believe that both you and they are justified in relying upon such opinions and certificates);

(iv) The issuance of the Guarantee and the Debentures at the Time of Delivery and the compliance by the Company with all of the provisions of the Guarantee and the Debentures, the Indenture and this Agreement and the consummation of the transactions herein and therein contemplated will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument known to such counsel to which the Company or any of its subsidiaries is a party or by

which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, nor will such actions result in any violation of the provisions of the Restated Certificate of Incorporation or Amended and Restated By-laws of the Company or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties;

(v) To his knowledge, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a Material Adverse Effect; and, to such counsel's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others;

(vi) Neither the Company nor any of its subsidiaries is in violation of its certificate of incorporation or by-laws or in default in the performance or observance of any material obligation, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound;

(vii) The documents incorporated by reference in the Prospectus or any further amendment or supplement thereto made by the Company prior to the Time of Delivery (other than the financial statements and related schedules therein, as to which such counsel need express no opinion), when they became effective or were filed with the Commission, as the case may be, complied as to form in all material respects with the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder; and he

has no reason to believe that any of such documents, when such documents became effective or were so filed, as the case may be, contained, in the case of a registration statement which became effective under the Act, an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or, in the case of other documents which were filed under the Act or the Exchange Act with the Commission, an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such documents were so filed, not misleading; and

(viii) The Registration Statement and the Prospectus and any further amendments and supplements thereto made by the Company prior to the Time of Delivery (other than the financial statements and related schedules therein, as to which such counsel need express no opinion) comply as to form in all material respects with the requirements of the Act and the Trust Indenture Act and the rules and regulations thereunder; although they do not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Registration Statement or the Prospectus, he has no reason to believe that, as of its effective date, the Registration Statement or any further amendment thereto made by the Company prior to the Time of Delivery (other than the financial statements and related schedules

therein, as to which such counsel need express no opinion) contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading or that, as of its date, the Prospectus or any further amendment or supplement thereto made by the Company prior to the Time of Delivery (other than the financial statements and related schedules therein and the Forms T-1; as to which such counsel need express no opinion) contained an untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein and the Forms T-1, in the light of the circumstances under which they were made, not misleading or that, as of the Time of Delivery, either the Registration Statement or the Prospectus or any further amendment or supplement thereto made by the Company prior to the Time of Delivery (other than the financial statements and related schedules therein, as to which such counsel need express no opinion) contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein and the Forms T-1, in the light of the circumstances under which they were made, not misleading; and they do not know of any amendment to the Registration Statement required

to be filed or of any contracts or other documents of a character required to be filed as an exhibit to the Registration Statement or required to be incorporated by reference into the Prospectus or required to be described in the Registration Statement or the Prospectus which are not filed or incorporated by reference or described as required.

In rendering such opinion, such counsel may state that he expresses no opinion as to the laws of any jurisdiction other than the federal laws of the United States, the laws of the State of New York and the General Corporation Law of the State of Delaware, except with respect to the matters set forth in (i), (ii) and (iii) of this Section 7(f).

(g) On the date of the Prospectus at a time prior to the execution of this Agreement, at 9:30 a.m., New York City time, on the effective date of any post-effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at the Time of Delivery, Arthur Andersen LLP shall have furnished to you a letter or letters, dated the respective dates of delivery thereof, in form and substance satisfactory to you, to the effect set forth in Annex I hereto (the executed copy of the letter delivered prior to the execution of this Agreement is attached as Annex I(a) hereto and a draft of the form of letter to be delivered on the effective date of any post-effective amendment to the Registration Statement and as of the Time of Delivery is attached as Annex I(b) hereto");

(h) (i) Neither the Company nor any of its subsidiaries shall have sustained since the date of the latest audited financial statements included or incorporated by reference in the Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Prospectus, and (ii) since the respective dates as of which information is given in the Prospectus there shall not have been any change in the capital stock or long-term debt of the Company or any of its subsidiaries or any change, or any development involving a prospective change, in or affecting the general affairs, management, financial position, shareholders' equity or results of operations of the Company and its subsidiaries, otherwise than as set forth or contemplated in the Prospectus, the effect of which, in any such case described in clause (i) or (ii), is in the judgment of the Representatives so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being issued at the Time of Delivery on the terms and in the manner contemplated in the

Prospectus;

(i) On or after the date hereof (i) no downgrading shall have occurred in the rating accorded the Company's debt securities by any "nationally recognized statistical rating organization", as that term is defined by the

Commission for purposes of Rule 436(g)(2) under the Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities;

(j) On or after the date hereof there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the New York Stock Exchange; (ii) a suspension or material limitation in trading in the Company's securities on the New York Stock Exchange; (iii) a general moratorium on commercial banking activities declared by either Federal or New York or Texas State authorities; or (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war, if the effect of any such event specified in this clause (iv) in the judgment of the Underwriters makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being issued at the Time of Delivery on the terms and in the manner contemplated in the Prospectus;

(k) The shares of Common Stock issuable upon conversion of the Securities will be duly listed, subject to notice of issuance, on the New York Stock Exchange;

(l) The Company shall have complied with the provisions of Section 5(c) hereof with respect to the furnishing of prospectuses on the Houston Business Day next succeeding the date of this Agreement;

(m) The Company shall have furnished or caused to be furnished to you at the Time of Delivery certificates of officers of the Company satisfactory to you as to the accuracy of the representations and warranties of the Company herein at and as of the Time of Delivery, as to the performance by the Company of all of its obligations hereunder to be performed at or prior to the Time of Delivery, as to the matters set forth in subsections (a) and (e) of this Section and as to such other matters as you may reasonably request; and

(n) During a period of 90 days from the date hereof, the Company and the Trust will not, without the prior written consent of Goldman, Sachs & Co., sell, offer to sell, grant any option (excluding options granted under the Company's long-term employee incentive plans) for the sale of, or otherwise dispose of any Securities, Common Trust Securities or Debentures, any security convertible into or exchangeable into or exercisable for, the Securities, Common Trust Securities or the Debentures or any debt substantially similar to the Debentures or any equity securities substantially similar to the Securities or the Common Trust Securities (except as issued hereunder) or any Common Stock (except shares of Common Stock issuable upon the exercise of options granted under the Company's long term incentive plans) or any security convertible into or exchangeable into or exercisable for Common Stock or any equity security substantially similar to the Common Stock; and the Company shall have obtained a written undertaking, for delivery to the Underwriters, signed by each director and officer of the Company stating that such officer or director has agreed to be bound by this provision.

8. (a) The Company and the Trust will jointly and severally indemnify and hold

harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, the Registration Statement or the Prospectus, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such action or claim as such expenses are incurred; PROVIDED, HOWEVER, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in any Preliminary Prospectus, the Registration Statement or the Prospectus or any such amendment or supplement in reliance upon and in conformity with written information furnished to the Company by any Underwriter through Goldman, Sachs & Co. expressly for use therein.

(b) Each Underwriter will indemnify and hold harmless the Company and the Trust against any losses, claims, damages or liabilities to which the Company may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, the Registration Statement or the Prospectus, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in any Preliminary Prospectus, the Registration Statement or the Prospectus or any such amendment or supplement in reliance upon and in conformity with written information furnished to the Company by such Underwriter through Goldman, Sachs & Co. expressly for use therein; and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred.

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the



indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under such subsection. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any

judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(d) If the indemnification provided for in this Section 8 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Trust on the one hand and the Underwriters on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (c) above, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company and the Trust on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company and the Trust on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Trust bear to the total

underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company and the Trust on the one hand or the Underwriters on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company, the Trust and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by PRO RATA allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company and the Trust under this Section 8 shall be in addition to any liability which the Company and the Trust may otherwise have and shall extend,

upon the same terms and conditions, to each person, if any, who controls any Underwriter within the meaning of the Act; and the obligations of the Underwriters under this Section 8 shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company and the Trust (including any person who, with his or her consent, is named in the Registration Statement as about to become a director of the Company) and to each person, if any, who controls the Company or the Trust within the meaning of the Act.

9. (a) If any Underwriter shall default in its obligation to purchase the Securities which it has agreed to purchase hereunder, you may in your discretion arrange for you or another party or other parties to purchase such Securities on the terms contained herein at a Time of Delivery. If within



thirty-six hours after such default by any Underwriter you do not arrange for the purchase of such Securities, then the Company and the Trust shall be entitled to a further period of thirty-six hours within which to procure another party or other parties satisfactory to you to purchase such Securities on such terms. In the event that, within the respective prescribed periods, you notify the Company and the Trust that you have so arranged for the purchase of such Securities, or the Company or the Trust notifies you that it has so arranged for the purchase of such Securities, you or the Company or the Trust shall have the right to postpone the Time of Delivery for a period of not more than seven days, in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees to file promptly any amendments to the Registration Statement or the Prospectus which in your opinion may thereby be made necessary. The term "Underwriter" as used in this Agreement shall include any person substituted under this Section with like effect as if such person had originally been a party to this Agreement with respect to such Securities.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company or the Trust as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased does not exceed one-eleventh of the aggregate number of all the Securities to be purchased at the Time of Delivery, then the Company and the Trust shall have the right to require each non-defaulting Underwriter to purchase the number of Securities which such Underwriter agreed to purchase hereunder at the Time of Delivery and, in addition, to require each non-defaulting Underwriter to purchase its pro rata share (based on the number of Securities which such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company or the Trust as provided in subsection (a) above, the aggregate number of Securities which remains unpurchased exceeds one-eleventh of the aggregate number of all the Securities to be purchased at the Time of Delivery, or if the Company or the Trust shall not exercise the right described in subsection (b) above to require non-defaulting Underwriters to purchase Securities of a defaulting Underwriter or Underwriters, then this Agreement shall thereupon terminate, without liability on the part of any non-defaulting Underwriter, the Company or the Trust, except for the expenses to be borne by the Company and the Underwriters as provided in Section 6 hereof and the indemnity and contribution agreements in Section 8 hereof; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

10. The respective indemnities, agreements, representations, warranties and other statements of the Company, the Trust and the several

Underwriters, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Underwriter or any controlling person of any Underwriter, the Company or the Trust, or any officer or director or controlling person of the Company or the Trust, and shall survive delivery of and payment for the Securities.

11. If this Agreement shall be terminated pursuant to Section 9 hereof, the Company and the Trust shall not then be under any liability to any Underwriter except as provided in Sections 6 and 8 hereof; but, if for any other reason, any Securities are not delivered by or on behalf of the Trust as provided herein, the Company and the Trust will jointly and severally reimburse the Underwriters through you for all out-of-pocket expenses approved in writing by you, including fees and disbursements of counsel, reasonably incurred by the Underwriters in making preparations for the purchase, sale and delivery of the Securities, but the Company shall then be under no further liability to any Underwriter except as provided in Sections 6 and 8 hereof.

12. In all dealings hereunder, you shall act on behalf of each of the Underwriters, and the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Underwriter made or given by you jointly or by Goldman, Sachs & Co. on behalf of you as the Underwriters.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Underwriters shall be delivered or sent by mail, telex or facsimile transmission to you as the Underwriters in care of Goldman, Sachs & Co., 32 Old Slip, 21st Floor, New York, New York 10005, Attention: Registration Department; if to the Company shall be delivered or sent by mail, telex or facsimile transmission to the address of the Company set forth in the Registration Statement, Attention: Secretary and if to the Trust shall be delivered or sent by mail, telex or facsimile transmission to (713) 297-4970; PROVIDED, HOWEVER, that any notice to an Underwriter pursuant to Section 8(c) hereof shall be delivered or sent by mail, telex or facsimile transmission to such Underwriter at its address set forth in its Underwriters' Questionnaire, or telex constituting such Questionnaire, which address will be supplied to the Company by you upon request. Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

13. This Agreement shall be binding upon, and inure solely to the benefit of, the Underwriters, the Trust, the Company and, to the extent provided in Sections 8 and 10 hereof, the officers and directors of the Company and each person who controls the Company or any Underwriter, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Securities from any Underwriter shall be deemed a successor or assign by reason merely of such purchase.

14. Time shall be of the essence of this Agreement. As used herein, the term "business day" shall mean any day when the Commission's office in

Washington, D.C. is open for business, unless otherwise specified.

15. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH

THE LAWS OF THE STATE OF NEW YORK.

16. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument.

If the foregoing is in accordance with your understanding, please sign and return to us one for the Company, the Trust and each of the Underwriters plus one for each counsel counterparts hereof, and upon the acceptance hereof by you, on behalf of each of the Underwriters, this letter and such acceptance hereof shall constitute a binding agreement between each of the Underwriters and the Company. It is understood that your acceptance of this letter on behalf of each of the Underwriters is pursuant to the authority set forth in a form of Agreement among Underwriters, the form of which shall be submitted to the Company for examination upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

POGO TRUST I

BY: \_\_\_\_\_  
NAME:  
TITLE:

POGO PRODUCING COMPANY

BY: \_\_\_\_\_  
NAME:  
TITLE:

ACCEPTED AS OF THE DATE HEREOF:

GOLDMAN, SACHS & CO.  
CREDIT SUISSE FIRST BOSTON CORPORATION  
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

BY: \_\_\_\_\_  
(GOLDMAN, SACHS & CO.)

SCHEDULE I

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UNDERWRITER -----	NUMBER OF SECURITIES TO BE PURCHASED -----
<S>	<C>
Goldman, Sachs & Co.	1,950,000
Credit Suisse First Boston	525,000
Merrill Lynch & Co.	
Merrill Lynch, Pierce, Fenner & Smith Incorporated	525,000
Total	3,000,000

</TABLE>

ANNEX I

DESCRIPTION OF COMFORT LETTER

Pursuant to Section 7(d) of the Underwriting Agreement, the accountants shall furnish letters to the Underwriters to the effect that:

(i) They are independent certified public accountants with respect to the Company and its subsidiaries within the meaning of the

Act and the applicable published rules and regulations thereunder;

(ii) In their opinion, the financial statements and any supplementary financial information and schedules (and, if applicable, prospective financial statements and/or pro forma financial information) examined by them and included or incorporated by reference in the Registration Statement or the Prospectus comply as to form in all material respects with the applicable accounting requirements of the Act or the Exchange Act, as applicable, and the related published rules and regulations thereunder; and, if applicable, they have made a review in accordance with standards established by the American Institute of Certified Public Accountants of the consolidated interim financial statements, selected financial data, pro forma financial information, prospective financial statements and/or condensed financial statements derived from audited financial statements of the Company for the periods specified in such letter, as indicated in their reports thereon, copies of which have been [SEPARATELY] furnished to the representatives of the Underwriters (the "Representatives") [AND ARE ATTACHED HERETO];

(iii) They have made a review in accordance with standards established by the American Institute of Certified Public Accountants of the unaudited condensed consolidated statement of income, consolidated balance sheets and consolidated statements of cash flows included in the Prospectus and/or included in the Company's quarterly report on Form 10-Q incorporated by reference into the Prospectus as indicated in their reports thereon copies of which [HAVE BEEN SEPARATELY FURNISHED TO THE REPRESENTATIVES] [ARE ATTACHED HERETO]; and on the basis of specified procedures including inquiries of officials of the Company who have responsibility for financial and accounting matters regarding whether the unaudited condensed consolidated financial statements referred to in paragraph (vi) (A) (i) below comply as to form in the related in all material respects with the applicable accounting requirements of the [ACT AND THE EXCHANGE] Act and the related published rules and regulations, nothing came to their attention that caused them to believe that the unaudited condensed consolidated financial statements do not comply as to form in all material respects with the applicable accounting requirements of the [ACT AND THE EXCHANGE] Act and the related published rules and regulations;

(iv) The unaudited selected financial information with respect to the consolidated results of operations and financial position of the Company for the five most recent fiscal years included in the Prospectus and included or incorporated by

reference in Item 6 of the Company's Annual Report on Form 10-K for the most recent fiscal year agrees with the corresponding amounts (after restatement where applicable) in the audited consolidated

financial statements for such five fiscal years which were included or incorporated by reference in the Company's Annual Reports on Form 10-K for such fiscal years;

(v) They have compared the information in the Prospectus under selected captions with the disclosure requirements of Regulation S-K and on the basis of limited procedures specified in such letter nothing came to their attention as a result of the foregoing procedures that caused them to believe that this information does not conform in all material respects with the disclosure requirements of Items 301, 302, 402 and 503(d), respectively, of Regulation S-K;

(vi) On the basis of limited procedures, not constituting an examination in accordance with generally accepted auditing standards, consisting of a reading of the unaudited financial statements and other information referred to below, a reading of the latest available interim financial statements of the Company and its subsidiaries, inspection of the minute books of the Company and its subsidiaries since the date of the latest audited financial statements included or incorporated by reference in the Prospectus, inquiries of officials of the Company and its subsidiaries responsible for financial and accounting matters and such other inquiries and procedures as may be specified in such letter, nothing came to their attention that caused them to believe that:

(A) (i) the unaudited condensed consolidated statements of income, consolidated balance sheets and consolidated statements of cash flows included in the Prospectus and/or included or incorporated by reference in the Company's Quarterly Reports on Form 10-Q incorporated by reference in the Prospectus do not comply as to form in all material respects with the applicable accounting requirements of the Exchange Act and the related published rules and regulations, or (ii) any material modifications should be made to the unaudited consolidated statements of income, consolidated balance sheets and consolidated statements of cash flows included or incorporated by reference in the Company's Quarterly Reports on Form 10-Q incorporated by reference in the Prospectus, for them to be in conformity with generally accepted accounting principles;

(B) any other unaudited income statement data and balance sheet items included in the Prospectus do not agree with the corresponding items in the unaudited consolidated financial statements from which such data and items were derived, and any such unaudited data and items were not determined on a basis substantially consistent with the basis for the corresponding amounts in the audited consolidated financial statements included or incorporated by reference in the Company's Annual Report on Form 10-K for the most recent fiscal year;

(C) the unaudited financial statements which were not included in the Prospectus but from which were derived the

unaudited condensed financial statements referred to in clause (A) and any unaudited income statement data

and balance sheet items included in the Prospectus and referred to in clause (B) were not determined on a basis substantially consistent with the basis for the audited financial statements included or incorporated by reference in the Company's Annual Report on Form 10-K for the most recent fiscal year;

(D) any unaudited pro forma consolidated condensed financial statements included or incorporated by reference in the Prospectus do not comply as to form in all material respects with the applicable accounting requirements of the Act and the published rules and regulations thereunder or the pro forma adjustments have not been properly applied to the historical amounts in the compilation of those statements;

(E) as of a specified date not more than five days prior to the date of such letter, there have been any changes in the consolidated capital stock (other than issuances of capital stock upon exercise of options and stock appreciation rights, upon earn-outs of performance shares and upon conversions of convertible securities, in each case which were outstanding on the date of the latest balance sheet included or incorporated by reference in the Prospectus) or any increase in the consolidated long-term debt of the Company and its subsidiaries, or any decreases in consolidated net current assets or stockholders' equity or other items specified by the Representatives, or any increases in any items specified by the Representatives, in each case as compared with amounts shown in the latest balance sheet included or incorporated by reference in the Prospectus, except in each case for changes, increases or decreases which the Prospectus discloses have occurred or may occur or which are described in such letter; and

(F) for the period from the date of the latest financial statements included or incorporated by reference in the Prospectus to the specified date referred to in clause (E) there were any decreases in consolidated net revenues or operating profit or the total or per share amounts of consolidated net income or other items specified by the Representatives, or any increases in any items specified by the Representatives, in each case as compared with the comparable period of the preceding year and with any other period of corresponding length specified by the Representatives, except in each case for increases or decreases which the Prospectus discloses have occurred or may

occur or which are described in such letter; and

(vii) In addition to the examination referred to in their report(s) included or incorporated by reference in the Prospectus and the limited procedures, inspection of minute books, inquiries and other procedures referred to in paragraphs (iii) and (vi) above, they have carried out certain specified procedures, not constituting an examination in accordance with generally accepted auditing standards, with respect to certain amounts, percentages and financial information specified by the Representatives which are derived from the general accounting records of the Company and its subsidiaries, which appear in the Prospectus (excluding documents incorporated by reference) or in Part II of, or in exhibits and schedules to, the Registration Statement specified by the Representatives or in documents incorporated by reference in the Prospectus specified by the Representatives, and have compared certain of such amounts, percentages and financial information with the accounting records of the

Company and its subsidiaries and have found them to be in agreement.



=====

AMENDED AND RESTATED DECLARATION OF TRUST

OF

POGO TRUST I

-----

Dated as of June 2, 1999

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AMENDED AND RESTATED  
DECLARATION OF TRUST  
OF  
POGO TRUST I

AMENDED AND RESTATED DECLARATION OF TRUST (this "Declaration") dated and effective as of June 2, 1999 by John O. McCoy, Jr., an individual, John W. Elsenhans, an individual, and Gerald A. Morton, an individual, as Regular Trustees (the "Regular Trustees"), Wilmington Trust Company, as Property Trustee (the "Property Trustee") and Wilmington Trust Company, as Delaware Trustee (the "Delaware Trustee") (together with all other Persons from time to time duly appointed and serving as trustees in accordance with the provisions of this Declaration, the "Trustees"), Pogo Producing Company, a Delaware corporation, as trust sponsor ("Pogo" or the "Sponsor"), and by the holders, from time to time, of undivided beneficial interests in the assets of the Trust to be issued pursuant to this Declaration.

WHEREAS, the Sponsor and certain of the Trustees entered into a Declaration of Trust dated as of March 17, 1999 (the "Original Declaration") in order to establish Pogo Trust I, a statutory business trust (the "Trust"), under the Business Trust Act (as hereinafter defined);

WHEREAS, the Certificate of Trust (the "Certificate of Trust") of the Trust was filed with the office of the Secretary of State of the State of Delaware on March 18, 1999; and

WHEREAS, the Trustees and the Sponsor desire to continue the Trust pursuant to the Business Trust Act for the purpose of, as described more fully in Sections 3.03 and 3.04 hereof, (i) issuing and selling Preferred Securities (as hereinafter defined) representing preferred undivided beneficial interests in the assets of the Trust for cash and investing the proceeds thereof in Debentures (as hereinafter defined) of Pogo issued under the Indenture (as hereinafter defined) to be held as assets of the Trust and (ii) issuing and selling Common Securities (as hereinafter defined) representing common undivided beneficial interests in the assets of the Trust to Pogo in exchange for cash and investing the proceeds thereof in additional Debentures issued under the Indenture to be held as assets of the Trust;

NOW, THEREFORE, it being the intention of the parties hereto that the Trust constitute a business trust under the Business Trust Act, that the Original Declaration be amended and restated in its entirety as provided herein and that this Declaration constitute the governing instrument of such business trust, the Trustees declare that all Debentures referred to in clauses (i) and (ii) of the previous paragraph purchased by the Trust will be held for the benefit of the Holders (as hereinafter defined) from time to time, of the Certificates (as hereinafter defined) representing undivided beneficial interests in the assets of the Trust issued hereunder, subject to the provisions of this Declaration.

ARTICLE 1  
DEFINITIONS

SECTION 1.01. Definitions.

(a) Capitalized terms used in this Declaration but not defined in the preamble above have the respective meanings assigned to them in this Section 1.01;

(b) a term defined anywhere in this Declaration has the same meaning throughout;

(c) all references to "the Declaration" or "this Declaration" are to this Amended and Restated Declaration of Trust (including Exhibits A, B and C hereto (the "Exhibits")) as modified, supplemented or amended from time to time;

(d) all references in this Declaration to Articles, Sections and Exhibits are to Articles and Sections of and Exhibits to this Declaration unless otherwise specified;

(e) a term defined in the Trust Indenture Act has the same meaning when used in this Declaration unless otherwise defined in this Declaration or unless the context otherwise requires; and

(f) a reference to the singular includes the plural and vice versa.

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of this definition, beneficial ownership of 10% or more of the voting common equity (on a fully diluted basis) or options or warrants to purchase such equity (but only if exercisable at the date of determination or within 60 days thereof) of a Person shall be deemed to constitute control of such Person. No Person shall be deemed an Affiliate of an oil and gas royalty trust solely by virtue of ownership of units of beneficial interest in such trust.

"Book Entry Interest" means a beneficial interest in a Global Certificate registered in the name of a Clearing Agency or a nominee thereof, ownership and transfers of which shall be maintained and made through book entries by such Clearing Agency as described in Section 9.04.

"Business Day" means any day other than a Saturday or Sunday or a day on which banking institutions in the Borough of Manhattan, The City and State of New York, Wilmington, Delaware or Houston, Texas are authorized or required by law or executive order to close.

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"Business Trust Act" means Chapter 38 of Title 12 of the Delaware Code, 12 Del. Code ss. 3801 et seq., as it may be amended from time to time, or any successor legislation.

"Certificate" means a Common Security Certificate or a Preferred Security Certificate.

"Certificate of Trust" has the meaning set forth in the second WHEREAS clause above.

"Clearing Agency" means an organization registered as a "Clearing



Agency" pursuant to Section 17A of the Exchange Act that is acting as depository for the Preferred Securities and in whose name or in the name of a nominee of that organization shall be registered a Global Certificate and which shall undertake to effect book entry transfers and pledges of the Preferred Securities.

"Clearing Agency Participant" means a broker, dealer, bank, other financial institution or other Person for whom from time to time the Clearing Agency effects book entry transfers and pledges of securities deposited with the Clearing Agency.

"Closing Date" means June 2, 1999, which date is also the date of execution and delivery of this Declaration.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor legislation. A reference to a specific section (Sec.) of the Code refers not only to such specific section but also to any corresponding provision of any Federal tax statute enacted after the date of this Declaration, as such specific section or corresponding provision is in effect on the date of application of the provisions of this Declaration containing such reference.

"Commission" means the Securities and Exchange Commission.

"Common Securities" has the meaning specified in Section 7.01(b).

"Common Security Certificate" means a definitive certificate in fully registered form representing a Common Security substantially in the form of Annex I to Exhibit C.

"Common Stock" means the common stock, par value \$1.00 per share, of Pogo including associated preferred share purchase rights, or any other class of stock, other securities, cash or other assets into which the Debentures are then convertible.

"Conversion Agent" has the meaning specified in Section 7.02.

"Covered Person" means (i) any officer, director, shareholder, partner, member, representative, employee or agent of the Trust or of any of its Affiliates, (ii) any officer, director, shareholder, employee, representative or agent of Pogo or of any of its Affiliates and (iii) the Holders from time to time of the Securities.

"Creditor" has the meaning specified in Section 4.02(c).

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"Debenture Trustee" means Wilmington Trust Company, a Delaware banking corporation, as trustee under the Indenture until a successor is appointed thereunder and thereafter means such successor trustee.

"Debentures" means the series of junior subordinated debentures issued by Pogo under the Indenture to the Property Trustee and entitled the "6 1/2% Junior Subordinated Convertible Debentures, Series A due 2029".

"Definitive Preferred Security Certificates" has the meaning set forth in Section 9.04.

"Delaware Trustee" has the meaning set forth in Section 5.01(a)(3).

"Depositary Agreement" means the agreement among the Trust, the Property

Trustee and DTC dated as of the Closing Date, as the same may be amended or supplemented from time to time.

"Distribution" means a distribution payable to Holders of Securities in accordance with Section 6.01.

"DTC" means The Depository Trust Company, the initial Clearing Agency.

"Event of Default" in respect of the Securities means that an Indenture Event of Default has occurred and is continuing with respect to the Debentures.

"Exchange" has the meaning specified in Section 3.13.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, or any successor legislation.

"Fiscal Year" has the meaning specified in Section 11.01.

"Global Certificate" has the meaning set forth in Section 9.04.

"Holder" means a Person in whose name a Certificate representing a Security is registered, such Person being a beneficial owner within the meaning of the Business Trust Act.

"Holder Direct Action" has the meaning specified in Section 3.10(e).

"Indemnified Person" means any Trustee, any Affiliate of any Trustee, any Conversion Agent, any Paying Agent, any officers, directors, shareholders, members, partners, employees, representatives or agents of any Trustee, Conversion Agent or Paying Agent, or any employee or agent of the Trust or of any of its Affiliates.

"Indenture" means the Junior Subordinated Indenture dated as of June 1, 1999 between Pogo and the Debenture Trustee as supplemented by Supplemental Indenture No. 1 thereto dated as of June 1, 1999, pursuant to which the Debentures are to be issued.

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"Indenture Event of Default" means that an event or condition defined as an "Event of Default" with respect to the Debentures under Section 6.01(a) of the Indenture and Section 2.10 of the Supplemental Indenture has occurred and is continuing.

"Investment Company" means an "investment company" as defined in the Investment Company Act.

"Investment Company Act" means the Investment Company Act of 1940, as amended from time to time, or any successor legislation.

"Legal Action" has the meaning specified in Section 3.08(g).

"Liquidation Distribution" has the meaning set forth in Exhibits B and C hereto establishing the terms of the Securities.

"List of Holders" has the meaning specified in Section 2.02(a).

"Majority in liquidation amount of the Securities" means, except as otherwise required by the Trust Indenture Act and except as provided in the penultimate paragraph of section 6 of Exhibit B hereto, Holder(s) of outstanding

Securities voting together as a single class or, as the context may require, Holder(s) of outstanding Preferred Securities or Common Securities voting separately as a class, who are the record owners of a relevant class of Securities whose liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accumulated and unpaid Distributions to the date upon which the voting percentages are determined) represents more than 50% of the liquidation amount of all outstanding Securities of such class.

"NASD" has the meaning specified in Section 3.13.

"Nasdaq" has the meaning specified in Section 3.13.

"1933 Act Registration Statement" has the meaning specified in Section 3.13.

"1934 Act Registration Statement" has the meaning specified in Section 3.13.

"Officers' Certificate" means a certificate signed by the Chairman of the Board, the Chief Executive Officer, the President or a Vice President, and by the Treasurer, an Associate Treasurer, an Assistant Treasurer, the Controller, the Secretary or an Assistant Secretary of the Sponsor, and delivered to the appropriate Trustee. One of the officers signing an Officers' Certificate given pursuant to Section 2.04 shall be the principal executive, financial or accounting officer of the Sponsor. Any Officers' Certificate delivered with respect to compliance with a condition or covenant provided for in this Declaration shall include:

(a) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definitions relating thereto;

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(b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers' Certificate;

(c) a statement that each such officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

"Opinion of Counsel" means a written opinion of counsel, who may be counsel for the Trust, the Property Trustee or the Sponsor, which may be an employee of the Sponsor but not an employee of the Trust or the Property Trustee, and who shall be reasonably acceptable to the Property Trustee. Any Opinion of Counsel pertaining to federal income tax matters may rely on published rulings of the Internal Revenue Service.

"Original Declaration" has the meaning set forth in the first WHEREAS clause above.

"Paying Agent" has the meaning specified in Section 3.10(i).

"Payment Amount" has the meaning specified in Section 6.01.

"Person" means a legal person, including any individual, corporation,

estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Pogo" or "Sponsor" means Pogo Producing Company, a Delaware corporation, or any successor entity resulting from any merger, consolidation, amalgamation or other business combination, in its capacity as sponsor of the Trust.

"Preferred Securities Guarantee" means the Guarantee Agreement dated as of June 2, 1999 of Pogo and Wilmington Trust Company as initial guarantee trustee thereunder, in respect of the Preferred Securities.

"Preferred Securities" has the meaning specified in Section 7.01(b).

"Preferred Security Beneficial Owner" means, with respect to a Book Entry Interest, a Person who is the beneficial owner of such Book Entry Interest, as reflected on the books of the Clearing Agency, or on the books of a Person maintaining an account with such Clearing Agency (directly as a Clearing Agency Participant or as an indirect participant, in each case in accordance with the rules of such Clearing Agency).

"Preferred Security Certificate" means a definitive certificate in fully registered form representing a Preferred Security substantially in the form of Annex I to Exhibit B.

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"Property Trustee" means the Trustee meeting the eligibility requirements set forth in Section 5.01(c) and having the duties set forth for the Property Trustee herein.

"Property Account" has the meaning specified in Section 3.10(c)(i).

"Quorum" means a majority of the Regular Trustees or, if there are only two Regular Trustees, both such Regular Trustees.

"Regular Trustee" means any Trustee other than the Property Trustee and the Delaware Trustee.

"Related Party" means any direct or indirect wholly owned subsidiary of Pogo or any other Person which owns, directly or indirectly, 100% of the outstanding voting securities of Pogo.

"Resignation Request" has the meaning specified in Section 5.02(d).

"Responsible Officer" means, when used with respect to the Property Trustee, any officer within the corporate department of the Property Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Property Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Declaration.

"Rule 3a-5" Means Rule 3a-5 under the Investment Company Act or any successor rule thereunder.

"Rule 3a-7" means Rule 3a-7 under the Investment Company Act or any successor rule thereunder.

"Securities" means the Common Securities and the Preferred Securities.

"Securities Act" means the Securities Act of 1933, as amended from time to time, or any successor legislation.

"Special Event" has the meaning set forth in the terms of the Securities as set forth in section 4 of Exhibits B and C hereto.

"Sponsor or Pogo" Pogo Producing Company, a Delaware corporation, or any successor entity resulting from any merger, consolidation, amalgamation or other business combination, in its capacity as sponsor of the Trust.

"Successor Delaware Trustee" has the meaning specified in Section 5.02(b)(ii).

"Successor Entity" has the meaning specified in Section 3.18(b)(i).

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"Successor Property Trustee" has the meaning specified in Section 5.02(b)(i).

"Successor Securities" has the meaning specified in Section 3.18(b)(i)(B).

"Super Majority" has the meaning specified in Section 2.06(a)(ii).

"Supplemental Indenture" means Supplemental Indenture No. 1 dated as of June 1, 1999 between Pogo and the Debenture Trustee, pursuant to which the Debentures are to be issued.

"10% in liquidation amount of the Securities" means, except as otherwise required by the Trust Indenture Act and except as provided in the penultimate paragraph of section 6 of Exhibit B hereto, Holder(s) of outstanding Securities voting together as a single class or, as the context may require, Holder(s) of outstanding Preferred Securities or Common Securities, voting separately as a class, who are the record owners of a relevant class of Securities whose liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accumulated and unpaid Distributions to the date upon which the voting percentages are determined) represents 10% or more of the liquidation amount of all outstanding Securities of such class.

"Treasury Regulations" means the income tax regulations, including temporary and proposed regulations, promulgated under the Code by the United States Treasury, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"Trust" has the meaning set forth in the first WHEREAS clause above.

"Trustee" or "Trustees" means each Person who has signed this Declaration as a trustee, so long as such Person shall continue in office in accordance with the terms hereof, and all other Persons who may from time to time be duly appointed, qualified and serving as Trustees in accordance with the provisions hereof, and references herein to a Trustee or the Trustees shall refer to such Person or Persons solely in their capacity as trustees hereunder.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

"Underwriting Agreement" means the Underwriting Agreement dated as of

ARTICLE 2  
TRUST INDENTURE ACT

SECTION 2.01. Trust Indenture Act; Application.

(a) This Declaration is subject to the provisions of the Trust Indenture Act that are required to be part of this Declaration and shall, to the extent applicable, be governed by such provisions;

(b) if and to the extent that any provision of this Declaration limits, qualifies or conflicts with the duties imposed by ss.ss. 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control;

(c) the Property Trustee, to the extent permitted by applicable law and/or the rules and regulations of the Commission, shall be the only Trustee which is a trustee for the purposes of the Trust Indenture Act; and

(d) the application of the Trust Indenture Act to this Declaration shall not affect the nature of the Securities as equity securities representing undivided beneficial interests in the assets of the Trust.

SECTION 2.02. Lists of Holders of Preferred Securities.

(a) Each of the Sponsor and the Regular Trustees on behalf of the Trust shall provide the Property Trustee unless the Property Trustee is registrar for the Securities, (i) on each regular record date for payment of Distributions, a list, in such form as the Property Trustee may reasonably require, of the names and addresses of the Holders ("List of Holders") as of such record date, and (ii) at any other time, within 30 days of receipt by the Trust of a written request for a List of Holders as of a date no more than 15 days before such List of Holders is given to the Property Trustee, provided that neither the Sponsor nor the Regular Trustees on behalf of the Trust shall be obligated to provide such List of Holders at any time that the List of Holders does not differ from the most recent List of Holders given to the Property Trustee by the Sponsor and the Regular Trustees on behalf of the Trust. The Property Trustee shall preserve, in as current a form as is reasonably practicable, all information contained in Lists of Holders given to it or which it receives in the capacity as Paying Agent (if acting in such capacity) provided that the Property Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

(b) The Property Trustee shall comply with its obligations under ss.ss. 310(b), 311 and 312(b) of the Trust Indenture Act.

SECTION 2.03. Reports by the Property Trustee.

Within 60 days after May 15 of each year, commencing May 15, 2000, the Property Trustee shall provide to the Holders of the Securities such reports as are required by ss. 313 of the Trust Indenture Act, if any, in the form, in the manner and at the times provided by ss. 313 of the Trust

Indenture Act. The Property Trustee shall also comply with the requirements of ss. 313(d) of the Trust Indenture Act. A copy of each such report shall, at the time of such transmission to Holders, be filed by the Property Trustee with the Company, with each stock exchange upon which any Preferred Securities are listed (if so listed) and also with the Commission. The Company agrees to notify the Property Trustee when any Preferred Securities become listed on any stock exchange and of any delisting thereof.

SECTION 2.04. Periodic Reports to the Property Trustee.

Each of the Sponsor and the Regular Trustees on behalf of the Trust shall provide to the Property Trustee, the Commission and the Holders of the Securities, as applicable, such documents, reports and information as required by ss. 314(a)(1)-(3) (if any) of the Trust Indenture Act and the compliance certificates required by ss. 314(a)(4) and (c) of the Trust Indenture Act, any such certificates to be provided in the form, in the manner and at the times required by ss. 314(a)(4) and (c) of the Trust Indenture Act (provided that any certificate to be provided pursuant to ss. 314(a)(4) of the Trust Indenture Act shall be provided within 120 days of the end of each Fiscal Year).

SECTION 2.05. Evidence of Compliance with Conditions Precedent.

Each of the Sponsor and the Regular Trustees on behalf of the Trust shall provide to the Property Trustee such evidence of compliance with any conditions precedent provided for in this Declaration which relate to any of the matters set forth in ss. 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to ss. 314(c) may be given in the form of an Officers' Certificate.

SECTION 2.06. Events of Default; Waiver.

(a) The Holders of a Majority in liquidation amount of Preferred Securities may, by vote, on behalf of the Holders of all of the Preferred Securities, waive any past Event of Default in respect of the Preferred Securities and its consequences, provided that, if the underlying Event of Default under the Indenture:

(i) is not waivable under the Indenture, the Event of Default under this Declaration shall also not be waivable; or

(ii) requires the consent or vote of the holders of greater than a majority in aggregate principal amount of the Debentures (a "Super Majority") to be waived under the Indenture, the Event of Default under this Declaration may only be waived by the vote of the Holders of at least the proportion in aggregate liquidation amount of the Preferred Securities that the relevant Super Majority represents of the aggregate principal amount of the Debentures outstanding.

The foregoing provisions of this Section 2.06(a) shall be in lieu of ss. 316(a)(1)(B) of the Trust Indenture Act and such ss. 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act. Upon such waiver, any

such default shall cease to exist, and any Event of Default with respect to the Preferred Securities arising therefrom shall be deemed to have been cured, for every purpose of this Declaration, but no such waiver shall extend to any subsequent or other default or an Event of Default with respect to the Preferred



Securities or impair any right consequent thereon. Any waiver by the Holders of the Preferred Securities of an Event of Default with respect to the Preferred Securities shall also be deemed to constitute a waiver by the Holders of the Common Securities of any such Event of Default with respect to the Common Securities for all purposes of this Declaration without any further act, vote or consent of the Holders of the Common Securities.

(b) The Holders of a Majority in liquidation amount of the Common Securities may, by vote, on behalf of the Holders of all of the Common Securities, waive any past Event of Default with respect to the Common Securities and its consequences, provided that, if the underlying Event of Default under the Indenture:

(i) is not waivable under the Indenture, except where the Holders of the Common Securities are deemed to have waived such Event of Default under this Declaration as provided above in Section 2.06(a) or below in this Section 2.06(b), the Event of Default under this Declaration shall also not be waivable; or

(ii) requires the consent or vote of a Super Majority to be waived, except where the Holders of the Common Securities are deemed to have waived such Event of Default under this Declaration as provided above in Section 2.06(a) or below in this Section 2.06(b), the Event of Default under this Declaration may only be waived by the vote of the Holders of at least the proportion in aggregate liquidation amount of the Common Securities that the relevant Super Majority represents of the aggregate principal amount of the Debentures outstanding;

provided, further, that the Holders of Common Securities will be deemed to have waived any such Event of Default and all Events of Defaults with respect to the Common Securities and their consequences until all Events of Default with respect to the Preferred Securities have been cured, waived or otherwise eliminated, and until such Events of Default have been so cured, waived or otherwise eliminated, the Property Trustee will be deemed to be acting solely on behalf of the Holders of the Preferred Securities and only the Holders of the Preferred Securities will have the right to direct the Property Trustee in accordance with the terms of the Securities. The foregoing provisions of this Section 2.06(b) shall be in lieu of ss.ss. 316(a) (1) (A) and 316(a) (1) (B) of the Trust Indenture Act and such ss.ss. 316(a) (1) (A) and 316(a) (1) (B) of the Trust Indenture Act are hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act. In the event that any Event of Default with respect to the Preferred Securities is waived by the Holders of Preferred Securities as provided in this Declaration, the Holders of Common Securities agree that such waiver shall also constitute the waiver of such Event of Default with respect to the Common Securities for all purposes under this Declaration without any further act, vote or consent of the Holders of the Common Securities. Subject to the foregoing provisions of this Section 2.06(b), upon waiver, any such default shall cease to exist and any Event of Default with respect to the Common Securities arising therefrom shall be deemed to have been cured for every purpose of

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this Declaration, but no such waiver shall extend to any subsequent or other default or Event of Default with respect to the Common Securities or impair any right consequent thereon.

(c) A waiver of an Event of Default under the Indenture by the Property Trustee, at the direction of the Holders of Preferred Securities, constitutes a waiver of the corresponding Event of Default under this Declaration. The

foregoing provisions of this Section 2.06(c) shall be in lieu of ss. 316(a)(1)(B) of the Trust Indenture Act and such ss. 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act.

#### SECTION 2.07. Disclosure of Information.

The disclosure of information as to the names and addresses of the Holders of the Securities in accordance with ss. 312 of the Trust Indenture Act, regardless of the source from which such information was derived, shall not be deemed to be a violation of any existing law, or any law hereafter enacted which does not specifically refer to ss. 312 of the Trust Indenture Act, nor shall the Property Trustee be held accountable by reason of mailing any material pursuant to a request made under ss. 312(b) of the Trust Indenture Act.

### ARTICLE 3 ORGANIZATION

#### SECTION 3.01. Name.

The Trust continued by this Declaration is named "Pogo Trust I" as such name may be modified from time to time by the Regular Trustees following written notice to the Holders of the Securities. The Trust's activities may be conducted under the name of the Trust or any other name deemed advisable by the Regular Trustees.

#### SECTION 3.02. Office.

The address of the principal office of the Trust is c/o Pogo Producing Company, 5 Greenway Plaza, Suite 2700, Houston, Texas 77046. Upon ten days' written notice to the Holders, the Regular Trustees may change the location of the Trust's principal office.

#### SECTION 3.03. Issuance of the Securities.

On May 26, 1999 the Sponsor, on behalf of the Trust and pursuant to the Original Declaration, executed and delivered the Underwriting Agreement. On the Closing Date and contemporaneously with the execution and delivery of this Declaration, the Regular Trustees, on behalf of the Trust, shall execute and deliver (i) one or more Global Certificates, registered in the name of the nominee of the initial Clearing Agency as specified in Section 9.04 for the benefit of the

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underwriters named in the Underwriting Agreement, in an aggregate amount of 3,000,000 Preferred Securities having an aggregate liquidation amount of \$150,000,000, against receipt of the aggregate purchase price of such Preferred Securities of \$150,000,000, and (ii) to the Sponsor, one or more Common Securities Certificates, registered in the name of the Sponsor, in an aggregate amount of 92,800 Common Securities having an aggregate liquidation amount of \$4,640,000, against receipt of the aggregate purchase price of such Common Securities of \$4,640,000.

#### SECTION 3.04. Purchase of Debentures.

On the Closing Date and contemporaneously with the execution and delivery of this Declaration, the Regular Trustees, on behalf of the Trust, shall purchase from the Sponsor with the proceeds received by the Trust from the

sale of the Securities on such date pursuant to Section 3.03, at a purchase price of 100% of the principal amount thereof, Debentures, registered in the name of the Property Trustee and having an aggregate principal amount equal to \$154,640,000, and, in satisfaction of the purchase price for such Debentures, the Property Trustee, on behalf of the Trust, shall deliver or cause to be delivered to the Sponsor the sum of \$154,640,000.

SECTION 3.05. Purpose.

The exclusive purposes and functions of the Trust are: (a) (i) to issue and sell Preferred Securities for cash and use the proceeds of such sales to acquire from Pogo Debentures issued under the Indenture having an aggregate principal amount equal to the aggregate liquidation amount of the Preferred Securities so issued and sold; (ii) to enter into such agreements and arrangements as may be necessary in connection with the sale of Preferred Securities to the initial purchasers thereof (including the Underwriting Agreement) and to take all action, and exercise such discretion, as may be necessary or desirable in connection therewith and to file such registration statements or make such other filings under the Securities Act, the Exchange Act or state securities or "Blue Sky" laws as may be necessary or desirable in connection therewith and the issuance of the Preferred Securities; and (iii) to issue and sell Common Securities to Pogo for cash and use the proceeds of such sale to purchase as trust assets an equal aggregate principal amount of Debentures issued under the Indenture; and (b) except as otherwise limited herein, to engage in only those other activities necessary, convenient or incidental thereto, including such other activities specifically authorized in this Declaration. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments, mortgage or pledge any of its assets or at any time while the Securities are outstanding, otherwise undertake (or permit to be undertaken) any activity that would result in or cause the Trust not to be classified for United States Federal income tax purposes as a grantor trust.

SECTION 3.06. Authority.

Subject to the limitations provided in this Declaration and to the specific duties of the Property Trustee, the Regular Trustees shall have exclusive and complete authority to carry out the purposes of the Trust. An action taken by the Regular Trustees in accordance with their powers shall constitute the act of and serve to bind the Trust and an action taken by the Property Trustee on behalf of the Trust in accordance with its powers shall constitute the act of and serve to bind the Trust. In dealing with the Trustees acting on behalf of the Trust, no Person shall be required to inquire into

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the authority of the Trustees to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Trustees as set forth in this Declaration.

SECTION 3.07. Title to Property of the Trust.

Except as provided in Section 3.10 with respect to the Debentures and the Property Account or unless otherwise provided in this Declaration, legal title to all assets of the Trust shall be vested in the Trust. The Holders shall not have legal title to any part of the assets of the Trust, but shall have undivided beneficial interests in the assets of the Trust.

SECTION 3.08. Powers and Duties of the Regular Trustees.

The Regular Trustees shall have the exclusive power, authority and duty

to cause the Trust, and shall cause the Trust, to engage in the following activities:

(a) to issue Preferred Securities and Common Securities, in each case in accordance with this Declaration; provided, however, that the Trust may issue no more than one series of Preferred Securities and no more than one series of Common Securities, and, provided further, that there shall be no interests in the Trust other than the Securities and the issuance of Securities shall be limited to a one-time, simultaneous issuance of both Preferred Securities and Common Securities on the Closing Date.

(b) in connection with the issuance of the Preferred Securities, at the direction of the Sponsor, to effect or cause to be effected the filings, and to execute or cause to be executed, the documents, set forth in Section 3.13 and to execute, deliver and perform on behalf of the Trust the Depositary Agreement;

(c) to acquire as trust assets Debentures with the proceeds of the sale of the Preferred Securities and the Common Securities; provided, however, that the Regular Trustees shall cause legal title to all of the Debentures to be vested in, and the Debentures to be held of record in the name of, the Property Trustee for the benefit of the Holders of the Preferred Securities and the Common Securities;

(d) if and to the extent that the Sponsor on behalf of the Trust has not already done so, to cause the Trust to enter into the Underwriting Agreement and such other agreements and arrangements as may be necessary or desirable in connection with the sale of the Preferred Securities to the initial purchasers thereof and the consummation thereof, and to take all action, and exercise all discretion, as may be necessary or desirable in connection with the consummation thereof;

(e) to give the Sponsor and the Property Trustee prompt written notice of the occurrence of a Special Event;

(f) to establish a record date with respect to all actions to be taken hereunder that require a record date be established, including for the purposes of ss. 316(c) of the Trust Indenture Act and with respect to Distributions, voting rights, redemptions, and exchanges, and to issue relevant notices

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to Holders of the Preferred Securities and Common Securities as to such actions and applicable record dates;

(g) to bring or defend, pay, collect, compromise, arbitrate, resort to legal action or otherwise adjust claims or demands of or against the Trust ("Legal Action"), unless pursuant to Section 3.10(e), the Property Trustee has the exclusive power to bring such Legal Action;

(h) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors and consultants and pay reasonable compensation for such services;

(i) to cause the Trust to comply with the Trust's obligations under the Trust Indenture Act;

(j) to give the certificate to the Property Trustee required by ss. 314(a)(4) of the Trust Indenture Act, which certificate may be executed by any Regular Trustee;

(k) to incur expenses which are necessary or incidental to carrying out any of the purposes of the Trust;

(l) to act as, or appoint another Person to act as, registrar and transfer agent for the Securities, the Regular Trustees hereby initially appointing the Property Trustee for such purposes;

(m) to take all actions and perform such duties as may be required of the Regular Trustee pursuant to the terms of the Securities set forth in Exhibits B and C hereto;

(n) to take all actions which may be necessary or appropriate for the preservation and the continuation of the Trust's valid existence, rights, franchises and privileges as a statutory business trust under the laws of the State of Delaware and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Holders of the Securities or to enable the Trust to effect the purposes for which the Trust has been created;

(o) to take all actions, not inconsistent with this Declaration or with applicable law, which the Regular Trustees determine in their discretion to be necessary or desirable in carrying out the purposes of the Trust and the activities of the Trust as set out in this Section 3.08, including, but not limited to:

(i) causing the Trust not to be deemed to be an Investment Company required to be registered under the Investment Company Act;

(ii) causing the Trust to be classified for United States Federal income tax purposes as a grantor trust; and

(iii) cooperating with the Sponsor to ensure that the Debentures will be treated as indebtedness of the Sponsor for United States Federal income tax purposes;

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(p) to take all actions necessary to cause all applicable tax returns and tax information reports that are required to be filed with respect to the Trust to be duly prepared and filed by the Regular Trustees, on behalf of the Trust, and to comply with any requirements imposed by any taxing authority on holders of instruments treated as indebtedness for United States Federal income tax purposes;

(q) subject to the requirements of Rule 3a-7 (if the Trust is excluded from the definition of an Investment Company solely by reason of Rule 3a-7) and ss. 317(b) of the Trust Indenture Act, to appoint one or more Paying Agents in addition to the Property Trustee; and

(r) to execute all documents or instruments, perform all duties and powers and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing.

The Regular Trustees must exercise the powers set forth in this Section 3.08 in a manner which is consistent with the purposes and functions of the Trust set out in Section 3.05, and the Regular Trustees shall not take any action which is inconsistent with the purposes and functions of the Trust set forth in Section 3.05.

Subject to this Section 3.08, the Regular Trustees shall have none of the powers or any of the authority of the Property Trustee set forth in Section

The Regular Trustees shall take all actions on behalf of the Trust that are not specifically required by this Declaration to be taken by any other Trustee.

Any expenses incurred by the Regular Trustees pursuant to this Section 3.08 shall be reimbursed by the Sponsor.

SECTION 3.09. Prohibition of Actions by the Trust and the Trustees.

The Trust shall not, and the Trustees (including the Property Trustee) shall cause the Trust not to, engage in any activity other than in connection with the purposes of the Trust or other than as required or authorized by this Declaration. In particular, the Trust shall not and the Trustees (including the Property Trustee) shall not cause the Trust to:

(a) invest any proceeds received by the Trust from holding the Debentures but shall promptly distribute from the Property Account all such proceeds to Holders of Securities pursuant to the terms of this Declaration and of the Securities;

(b) acquire any assets other than as expressly provided herein;

(c) possess Trust property for other than a Trust purpose;

(d) make any loans, other than loans represented by the Debentures;

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(e) possess any power or otherwise act in such a way as to vary the Trust assets or the terms of the Securities in any way whatsoever, except as otherwise expressly provided herein;

(f) issue any securities or other evidences of beneficial ownership of, or beneficial interests in, the Trust other than the Securities;

(g) incur any indebtedness for borrowed money;

(h) (i) direct the time, method and place of conducting any proceeding for any remedy available to the Debenture Trustee or exercising any trust or power conferred upon the Debenture Trustee with respect to the Debentures, (ii) waive any past default that is waivable under Section 6.06 of the Indenture, or (iii) exercise any right to rescind or annul a declaration of acceleration of the maturity of the principal of the Debentures, without, in each case, obtaining the prior approval of the Holders of a Majority in liquidation amount of all outstanding Securities;

(i) revoke any action previously authorized or approved by a vote of the Holders of Preferred Securities except by subsequent vote of such Holders;

(j) consent to any amendment, modification or termination of the Indenture or the Debentures, where such consent shall be required, unless in the case of this clause (j) the Property Trustee shall have received an Opinion of Counsel experienced in such matters to the effect that such amendment, modification or termination will not cause more than an insubstantial risk that for United States Federal income tax purposes the Trust will not be classified as a grantor trust;

(k) take or consent to any action that would result in the placement of a lien, pledge, charge, mortgage or other encumbrance on any of the Trust

property;

(l) vary the investment (within the meaning of Treasury Regulation Section 301.7701-4(c)) of the Trust or of the Holders of Securities; or

(m) after the date hereof, enter into any contract or agreement (other than any depositary agreement or any agreement with any securities exchange or automated quotation system) that does not expressly provide that the Holders of Preferred Securities, in their capacities as such, have limited liability (in accordance with the provisions of the Business Trust Act) for the liabilities and obligations of the Trust, which express provision shall be in substantially the following form, "The Holders of the Preferred Securities, in their capacities as such, shall not be personally liable for any liabilities or obligations of the Trust arising out of this Agreement, and the parties hereto hereby agree that the Holders of the Preferred Securities, in their capacities as such, shall be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware."

SECTION 3.10. Powers and Duties of the Property Trustee.

(a) The legal title to the Debentures shall be owned by and held of record in the name of the Property Trustee in trust for the benefit of the Holders of the Securities. The right, title and

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interest of the Property Trustee to the Debentures shall vest automatically in each Person who may hereafter be appointed as Property Trustee in accordance with Article 5. Such vesting and cessation of title shall be effective whether or not conveyancing documents with regard to the Debentures have been executed and delivered.

(b) The Property Trustee shall not transfer its right, title and interest in the Debentures to the Regular Trustees or, if the Property Trustee does not also act as the Delaware Trustee, the Delaware Trustee.

(c) The Property Trustee shall:

(i) establish and maintain a segregated non-interest bearing bank account (the "Property Account") in the name of and under the exclusive control of the Property Trustee on behalf of the Holders of the Securities and on the receipt of payments of funds made in respect of the Debentures held by the Property Trustee, deposit such funds into the Property Account and, without any further acts of the Property Trustee or the Regular Trustees, promptly make payments to the Holders of the Preferred Securities and Common Securities from the Property Account in accordance with Section 6.01. Funds in the Property Account shall be held uninvested, and without liability for interest thereon, until disbursed in accordance with this Declaration. The Property Account shall be an account which is maintained with a banking institution whose long term unsecured indebtedness is rated by a "nationally recognized statistical rating organization", as such term is defined for purposes of Rule 436(g) (2) under the Securities Act, at least investment grade;

(ii) engage in such ministerial activities as shall be necessary or appropriate to effect promptly the redemption of the Preferred Securities and the Common Securities to the extent the Debentures are redeemed or mature;



(iii) upon notice of distribution issued by the Regular Trustees in accordance with the terms of the Preferred Securities and the Common Securities, engage in such ministerial activities as shall be necessary or appropriate to effect promptly pursuant to terms of the Securities the distribution of Debentures to Holders of Securities upon the election of the Holder of Common Securities to distribute the Debentures to Holders of Securities and dissolve the Trust; and

(iv) have the legal power to exercise all of the rights, powers and privileges of a holder of the Debentures under the Indenture and, if an Event of Default occurs and is continuing, the Property Trustee, subject to Section 3.10(e), shall for the benefit of the Holders of the Securities, enforce its rights as holder of the Debentures under the Indenture, subject to the rights of the Holders of the Preferred Securities pursuant to the terms of this Declaration, the Business Trust Act and the Trust Indenture Act.

(d) The Property Trustee shall take all actions and perform such duties as may be specifically required of the Property Trustee pursuant to the terms of the Securities set forth in Exhibits B and C hereto.

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(e) If an Event of Default has occurred and is continuing, then the Holders of a Majority in liquidation amount of the Preferred Securities will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee or to direct the exercise of any trust or power conferred upon the Property Trustee under this Declaration, including the right to direct the Property Trustee to exercise the remedies available to it as a holder of the Debentures. If the Property Trustee fails to enforce its rights under the Debentures, a Holder of Preferred Securities, to the extent permitted by applicable law, may, after a period of 30 days has elapsed since such Holder's written request to the Property Trustee to enforce such rights, institute a legal proceeding directly against the Sponsor to enforce the Property Trustee's rights under the Debentures without first instituting any legal proceeding against the Property Trustee or any other Person; provided further, that, if an Event of Default has occurred and is continuing and such event is attributed to the failure of the Sponsor to pay interest or principal on the Debentures on the date such interest or principal is otherwise payable (or in the case of redemption, on the redemption date), then a Holder of Preferred Securities may directly institute a proceeding for enforcement of payment to such Holder of the principal of or interest on the Debentures having a principal amount equal to the aggregate liquidation amount of the Preferred Securities of such Holder (a "Holder Direct Action") on or after the respective due date specified in the Debentures. In connection with such Holder Direct Action, the Sponsor will be subrogated to the rights of such Holder of Preferred Securities to the extent of any payment made by the Sponsor to such Holders of Preferred Securities in such Holder Direct Action. Except as provided in the preceding sentences, the Holders of Preferred Securities will not be able to exercise directly any other remedy available to the Holders of the Debentures.

(f) All moneys deposited in the Property Account and all Debentures held by the Property Trustee for the benefit of the Holders of the Securities will not be subject to any right, charge, security interest, lien or claim of any kind in favor of, or for the benefit of the Property Trustee or its agents or their creditors.

(g) The Property Trustee shall, within 90 days after the occurrence of a default with respect to the Securities actually known to a Responsible Officer of the Property Trustee, transmit by mail, first class postage prepaid, to the

holders of the Securities, as their names and addresses appear upon the register, notice of such defaults with respect to the Securities known to the Property Trustee, unless such defaults shall have been cured before the giving of such notice (the term "defaults" for the purposes of this Section 3.10(g) being hereby defined to be an Indenture Event of Default, not including any periods of grace provided for in the Indenture and irrespective of the giving of any notice provided therein); provided, that, except in the case of default in the payment of the principal of (or premium, if any) or interest on any of the Debentures, the Property Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers, of the Property Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Securities. The Property Trustee shall not be deemed to have knowledge of any default, except (i) a default in the payment of principal, premium or interest on the Debentures or (ii) any default as to which the Property Trustee shall have received written notice or a Responsible Officer charged with the administration of this Declaration shall have obtained written notice.

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(h) The Property Trustee shall continue to serve as a Trustee until either:

(i) the Trust has been completely liquidated and the proceeds thereof distributed to the Holders of Securities pursuant to the terms of the Securities; or

(ii) a Successor Property Trustee has been appointed and accepted that appointment in accordance with Article 5.

(i) The Property Trustee shall act as paying agent in respect of the Common Securities and, if the Preferred Securities are not in book entry only form, the Preferred Securities and, subject to Section 3.08(q), may authorize one or more Persons (each, a "Paying Agent") to pay Distributions, redemption payments or liquidation payments on behalf of the Trust with respect to the Preferred Securities. Any such Paying Agent shall comply with ss. 317(b) of the Trust Indenture Act. Any Paying Agent may be removed by the Property Trustee, after consultation with the Regular Trustees, at any time and a successor Paying Agent or additional Paying Agents may be appointed at any time by the Property Trustee, subject to Section 3.08(q).

(j) The Property Trustee shall give prompt written notice to the Holders of the Securities of any notice received by it from Pogo of (i) its election to defer payments of interest on the Debentures by extending the interest payment period with respect thereto or (ii) the shortening of the maturity date of the Debentures in accordance with the terms of the Supplemental Indenture.

(k) Subject to this Section 3.10, the Property Trustee shall have none of the powers or the authority of the Regular Trustees set forth in Section 3.08.

(l) The Property Trustee shall exercise the powers, duties and rights set forth in this Section 3.10 and Section 3.12 in a manner which is consistent with the purposes and functions of the Trust set out in Section 3.05, and the Property Trustee shall not take any action which is inconsistent with the purposes and functions of the Trust set forth in Section 3.05.

SECTION 3.11. Delaware Trustee.

Notwithstanding any other provision of this Declaration other than

Section 5.01(a)(3), the Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities of the Trustees described in this Declaration. Except as set forth in Section 5.01(a)(3), the Delaware Trustee shall be a Trustee for the sole and limited purpose of fulfilling the requirements of ss. 3807(a) of the Business Trust Act. No implied covenants or obligations shall be read into this Declaration against the Delaware Trustee.

SECTION 3.12. Certain Rights and Duties of the Property Trustee.

(a) The Property Trustee, before the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Declaration, and no implied covenants shall be read into this Declaration against the Property Trustee. In case an Event of Default has occurred (that has not been cured or

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waived pursuant to Section 2.06), the Property Trustee shall exercise such of the rights and powers vested in it by this Declaration, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) No provision of this Declaration shall be construed to relieve the Property Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) prior to the occurrence of an Event of Default and after the curing or waiving of all such Events of Default that may have occurred:

(A) the duties and obligations of the Property Trustee shall be determined solely by the express provisions of this Declaration, and the Property Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Declaration, and no implied covenants or obligations shall be read into this Declaration against the Property Trustee; and

(B) in the absence of bad faith on the part of the Property Trustee, the Property Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Property Trustee and conforming to the requirements of this Declaration; provided, however, that in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Property Trustee, the Property Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Declaration;

(ii) the Property Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Property Trustee, unless it shall be proved that the Property Trustee was negligent in ascertaining the pertinent facts;

(iii) the Property Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a Majority in

liquidation amount of the Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Property Trustee hereunder or under the Indenture, or exercising any trust or power conferred upon the Property Trustee under this Declaration; and

(iv) no provision of this Declaration shall require the Property Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Declaration or adequate indemnity against such risk or liability is not reasonably assured to it.

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(c) Subject to the provisions of Section 3.12(a) and (b):

(i) whenever in the administration of this Declaration, the Property Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Property Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part and, if the Trust is excluded from the definition of Investment Company solely by means of Rule 3a-7, subject to the requirements of Rule 3a-7, request and rely upon an Officers' Certificate which, upon receipt of such request, shall be promptly delivered by the Sponsor or the Regular Trustees;

(ii) the Property Trustee (A) may consult with counsel (which may be counsel to the Sponsor or any of its Affiliates and may include any of its employees) selected by it in good faith and with due care and the written advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon and in accordance with such advice and opinion and (B) shall have the right at any time to seek instructions concerning the administration of this Declaration from any court of competent jurisdiction;

(iii) the Property Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Property Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed by it in good faith and with due care;

(iv) the Property Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Declaration at the request or direction of any Holder, unless such Holder shall have offered to the Property Trustee security and indemnity satisfactory to the Property Trustee against the costs, expenses (including attorneys' fees and expenses) and liabilities that might be incurred by it in complying with such request or direction; provided that nothing contained in this clause (iv) shall relieve the Property Trustee of the obligation, upon the occurrence of an Event of Default (which has not been cured or waived) to exercise such of the rights and powers vested in it by this Declaration, and to use the same degree of care and skill in this exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs; and

(v) any action taken by the Property Trustee or its agents

hereunder shall bind the Holders of the Securities, and the signature of the Property Trustee or its agents alone shall be sufficient and effective to perform any such action; and no third party shall be required to inquire as to the authority of the Property Trustee to so act, or as to its compliance with any of the terms and provisions of this Declaration, both of which shall be conclusively evidenced by the Property Trustee's or its agent's taking such action.

(d) The Property Trustee, in its individual or any other capacity, may become the owner or pledgee of Preferred Securities and may otherwise deal with the Sponsor with the same rights it would have if it were not the Property Trustee.

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(e) All moneys received by the Property Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Property Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree in writing to pay thereon.

(f) Whether or not expressly stated, every provision of this Declaration pertaining to the Property Trustee shall be subject to this Section 3.12.

#### SECTION 3.13. Registration Statement and Related Matters.

In accordance with the Original Declaration, Pogo, as the sponsor of the Trust, was authorized (i) to file with the Commission and execute, in each case on behalf of the Trust, (a) the Registration Statement on Form S-3 (Registration Nos. 333-75105, 333-75105-01 and 333-75105-02) (the "1933 Act Registration Statement") including any pre-effective or post-effective amendments thereto, relating to the registration under the Securities Act of the Preferred Securities and (b) if Pogo shall deem it desirable, a Registration Statement on Form 8-A or other appropriate form (the "1934 Act Registration Statement") (including all pre-effective and post-effective amendments thereto) relating to the registration of the Preferred Securities under Section 12 of the Exchange Act; (ii) if Pogo shall deem it desirable, to prepare and file with the New York Stock Exchange or one or more national securities exchange(s) (each, an "Exchange") or the National Association of Securities Dealers, Inc. (the "NASD") and execute on behalf of the Trust a listing application or applications and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Preferred Securities to be listed on any such Exchange or the NASD's Nasdaq National Market ("Nasdaq"); (iii) to file and execute on behalf of the Trust such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and all other papers and documents as Pogo, on behalf of the Trust, may deem necessary or desirable to register the Preferred Securities under the securities or "Blue Sky" laws of such jurisdictions as Pogo on behalf of the Trust, may deem necessary or desirable; and (iv) to negotiate the terms and execute on behalf of the Trust the Underwriting Agreement. In the event that any filing referred to in clauses (i)-(iii) above is required by the rules and regulations of the Commission, any Exchange, Nasdaq, the NASD or state securities or blue sky laws, to be executed on behalf of the Trust by the Trustees, the Regular Trustees, in their capacities as Trustees of the Trust, and Pogo are hereby authorized and directed to join in any such filing and to execute on behalf of the Trust any and all of the foregoing, it being understood that the Property Trustee and the Delaware Trustee, in their capacities as Trustees of the Trust, shall not be required to join in any such filing or execute on behalf of the Trust any such document unless required by the rules and regulations of the Commission, any Exchange, Nasdaq, the NASD or state

securities or blue sky laws. In connection with all of the foregoing, Pogo and each Trustee, solely in its capacity as Trustee of the Trust, by execution of this Declaration have constituted and appointed, and hereby confirm the appointment of, John O. McCoy, Jr., John W. Elsenhans and Gerald A. Morton and each of them, as his, her or its, as the case may be, true and lawful attorneys-in-fact, and agents, with full power of substitution and resubstitution, for Pogo or such Trustee or in Pogo's or such Trustee's name, place and stead, in any and all capacities, to sign any and all amendments (including post-

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effective amendments) to the 1933 Act Registration Statement and the 1934 Act Registration Statement and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as Pogo or such Trustee might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

SECTION 3.14. Filing of Amendments to Certificate of Trust.

The Certificate of Trust as filed with the Secretary of State of the State of Delaware on March 18, 1999 is attached hereto as Exhibit A. On or after the date of execution of this Declaration, the Trustees shall cause the filing with the Secretary of State of the State of Delaware of such amendments, if any, to the Certificate of Trust as the Trustees shall deem necessary or desirable.

SECTION 3.15. Execution of Documents by the Regular Trustees.

Except as otherwise required by the Business Trust Act with respect to the Certificate of Trust or otherwise and except as provided in Sections 7.01(c) and 9.08, any Regular Trustee, or if there is only one, such Regular Trustee is authorized to execute and deliver on behalf of the Trust any documents which the Regular Trustees have the power and authority to execute or deliver pursuant to this Declaration.

SECTION 3.16. Trustees Not Responsible for Recitals or Issuance of Securities.

The recitals contained in this Declaration and the Securities shall be taken as the statements of the Sponsor, and the Trustees do not assume any responsibility for their correctness. The Trustees make no representations as to the value or condition of the property of the Trust or any part thereof. The Trustees make no representations as to the validity or sufficiency of this Declaration or the Securities.

SECTION 3.17. Duration of the Trust.

The Trust, absent dissolution pursuant to the provisions of Article 8 hereof, shall continue without dissolution until December 31, 2053.

SECTION 3.18. Mergers.

(a) The Trust may not merge with or into, convert into, consolidate, amalgamate, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to any Person, except as described in Section 3.18(b) and (c) of this Declaration.

(b) The Trust may, at the request of the Sponsor, with the consent of the Regular Trustees or, if there are more than two, a majority of the Regular Trustees and without the consent of the Holders, the Delaware Trustee or the Property Trustee, merge with or into, convert into, consolidate,

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amalgamate, or be replaced by, or convey, transfer or lease its properties and assets as an entirety or substantially as an entirety to, a trust organized as such under the laws of any State; provided that:

(i) such successor entity (the "Successor Entity") either:

(A) expressly assumes all of the obligations of the Trust under the Securities and this Declaration; or

(B) substitutes for the Securities other securities having substantially the same terms as the Securities (the "Successor Securities") so long as the Successor Securities rank the same as the Securities rank with respect to Distributions and payments upon liquidation, redemption and otherwise;

(ii) the Sponsor expressly appoints a trustee of the Successor Entity that possesses the same powers and duties as the Property Trustee as the holder of the Debentures;

(iii) the Successor Securities are listed, or any Successor Securities will be listed upon notification of issuance, on any national securities exchange or with another organization in which the Preferred Securities are then listed or quoted, if any;

(iv) if the Preferred Securities (including any Successor Securities) are rated by any nationally recognized statistical rating organization prior to such transaction, such merger, conversion, consolidation, amalgamation, replacement, conveyance, transfer or lease does not cause the Preferred Securities (including any Successor Securities), or if the Debentures are so rated, the Debentures, to be downgraded by any nationally recognized statistical rating organization;

(v) such merger, conversion, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the Holders (including the holders of any Successor Securities) in any material respect (other than with respect to any dilution of such Holders' interests in the new entity);

(vi) such Successor Entity has purposes substantially identical to those of the Trust;

(vii) prior to such merger, conversion, consolidation, amalgamation, replacement, conveyance, transfer or lease, the Sponsor has received an Opinion of Counsel experienced in such matters that:

(A) such merger, conversion, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the Holders (including the holders of any Successor Securities) in any material respect (other than with respect to any dilution of the Holders' interest in the new entity);

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(B) following such merger, conversion, consolidation, amalgamation, replacement, conveyance, transfer or lease, neither the Trust nor the Successor Entity will be required to register as an Investment Company under the Investment Company Act; and

(C) following such merger, conversion, consolidation, amalgamation, replacement, conveyance, transfer or lease, the Trust (or the Successor Entity) will continue to be classified as a grantor trust for United States Federal income tax purposes;

(viii) the Sponsor or any permitted successor or assignee owns all of the common securities of such Successor Entity and guarantees the obligations of such Successor Entity under the Successor Securities at least to the extent provided by the Preferred Securities Guarantee; and

(ix) there shall have been furnished to the Property Trustee an Officers' Certificate and an Opinion of Counsel, each to the effect that all conditions precedent in this Declaration to such transaction have been satisfied.

(c) Notwithstanding Section 3.18(b), the Trust shall not, except with the consent of Holders of 100% in liquidation amount of the Securities, consolidate, amalgamate, merge with or into, convert into, or be replaced by, or convey, transfer or lease its properties and assets as an entirety or substantially as an entirety to, any other Person or permit any other Person to consolidate, amalgamate, merge with or into, or replace it if such consolidation, amalgamation, merger, conversion, replacement, conveyance, transfer or lease would cause the Trust or the Successor Entity not to be classified as a grantor trust for United States Federal income tax purposes or would cause the Holders of the Securities not to be treated as owning an undivided interest in the Debentures.

#### SECTION 3.19. Property Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other similar judicial proceeding relative to the Trust or any other obligor upon the Securities or the property of the Trust or of such other obligor or their creditors, the Property Trustee (irrespective of whether any Distributions on the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Property Trustee shall have made any demand on the Trust for the payment of any past due Distributions) shall be entitled and empowered, to the fullest extent permitted by law, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of any Distributions owing and unpaid in respect of the Securities (or, if the Securities are original issue discount Securities, such portion of the liquidation amount as may be specified in the terms of such Securities) and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Property Trustee (including any claim for the reasonable compensation, expenses, disbursements and

advances of the Property Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or

deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Property Trustee and, in the event the Property Trustee shall consent to the making of such payments directly to the Holders to pay to the Property Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Property Trustee, its agents and counsel, and any other amounts due the Property Trustee.

Nothing herein contained shall be deemed to authorize the Property Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or compensation affecting the Securities or the rights of any Holder thereof to authorize the Property Trustee to vote in respect of the claim of any Holder in any such proceeding.

#### ARTICLE 4 SPONSOR

##### SECTION 4.01. Purchase of Common Securities by the Sponsor.

On the Closing Date, the Sponsor will purchase all of the Common Securities issued by the Trust at the same time as the Preferred Securities to be issued on such date are issued, such purchase to be in an amount equal to or greater than 3% of the total capital of the Trust.

##### SECTION 4.02. Expenses.

(a) In connection with the purchase of the Debentures by the Trust, the Sponsor, in its capacity as Sponsor and not as a Holder, shall be responsible for and shall pay for all debts and obligations (other than with respect to the Securities) and all costs and expenses of the Trust (including, but not limited to, costs and expenses relating to the organization of the Trust, the issuance of the Preferred Securities to initial purchasers thereof, the fees and expenses (including reasonable counsel fees and expenses) of the Trustees (including any amounts payable under Article 10), the costs and expenses relating to the operation of the Trust, including, without limitation, costs and expenses of accountants, attorneys, statistical or bookkeeping services, expenses for printing and engraving and computing or accounting equipment, paying agent(s), registrar(s), transfer agent(s), duplicating, travel and telephone and other telecommunications expenses and costs and expenses incurred in connection with the disposition of Trust assets).

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(b) In connection with the purchase of the Debentures by the Trust, the Sponsor, in its capacity as Sponsor and not as a Holder, shall pay any and all taxes (other than United States withholding taxes attributable to the Trust or its assets) and all liabilities, costs and expenses with respect to such taxes of the Trust.

(c) The Sponsor's obligations under this Section 4.02 shall be for the benefit of, and shall be enforceable by, any Person to whom any such debts, obligations, costs, expenses and taxes are owed (a "Creditor") whether or not such Creditor has received notice hereof. Any such Creditor may enforce the Sponsor's obligations under this Section 4.02 directly against the Sponsor and the Sponsor irrevocably waives any right or remedy to require that any such Creditor take any action against the Trust or any other Person before proceeding against the Sponsor.

(d) The Sponsor shall be subrogated to all (if any) rights of the Trust in respect of any amounts paid to any Creditor by the Sponsor under this Section 4.02.

ARTICLE 5  
TRUSTEES

SECTION 5.01. Number of Trustees; Qualifications.

(a) The number of Trustees initially shall be five (5). At any time (i) before the issuance of the Securities, the Sponsor may, by written instrument, increase or decrease the number of, and appoint, remove and replace, the Trustees, and (ii) after the issuance of the Securities the number of Trustees may be increased or decreased solely by, and Trustees may be appointed, removed or replaced solely by, vote of Holders of Common Securities representing a Majority in liquidation amount of the Common Securities voting as a class; provided that in any case:

(1) the number of Trustees shall be at least five (5) unless the Trustee that acts as the Property Trustee also acts as the Delaware Trustee, in which case the number of Trustees shall be at least four (4);

(2) at least a majority of the Trustees shall at all times be officers, directors or employees of Pogo;

(3) if required by the Business Trust Act, one Trustee (the "Delaware Trustee") shall be either a natural person who is a resident of the State of Delaware or, if not a natural person, an entity which has its principal place of business in the State of Delaware and otherwise is permitted to act as a Trustee hereunder under the laws of the State of Delaware, except that if the Property Trustee has its principal place of business in the State of Delaware and otherwise is permitted to act as a Trustee hereunder under the

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laws of the State of Delaware, then the Property Trustee shall also be the Delaware Trustee and Section 3.11 shall have no application; and

(4) there shall at all times be a Property Trustee hereunder which shall satisfy the requirements of Section 5.01(c).

Each Trustee shall be either a natural person at least 21 years of age or a legal entity which shall act through one or more duly appointed representatives.

(b) The initial Regular Trustees shall be:

John O. McCoy, Jr.  
John W. Elsenshans  
Gerald A. Morton

c/o POGO PRODUCING COMPANY  
5 Greenway Plaza, Suite 2700  
Houston, Texas 77046

(c) There shall at all times be one Trustee which shall act as the Property Trustee. In order to act as the Property Trustee hereunder, such Trustee shall:

(i) not be an Affiliate of the Sponsor;

(ii) be a corporation or national banking association organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, or a corporation, national banking association or Person permitted by the Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000, and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority. If such corporation or national banking association publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then for the purposes of this Section 5.01(c)(ii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published; and

(iii) if the Trust is excluded from the definition of an Investment Company solely by reason of Rule 3a-7 and to the extent Rule 3a-7 requires a trustee having certain qualifications to hold title to the "eligible assets" (as defined in Rule 3a-7) of the Trust, the Property Trustee shall possess those qualifications.

If at any time the Property Trustee shall cease to satisfy the requirements of clauses (i)-(iii) above, the Property Trustee shall immediately resign in the manner and with the effect set out in Section 5.02(d). If the Property Trustee has or shall acquire any "conflicting interest" within the

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meaning of ss. 310(b) of the Trust Indenture Act, the Property Trustee and the Holders of the Common Securities (as if such Holders were the obligor referred to in ss. 310(b) of the Trust Indenture Act) shall in all respects comply with the provisions of ss. 310(b) of the Trust Indenture Act. The Preferred Securities Guarantee and the Indenture shall be deemed to be specifically described in this Declaration for the purposes of clause (i) of the first proviso contained in ss. 310(b) of the Trust Indenture Act.

The initial Trustee which shall serve as the Property Trustee is Wilmington Trust Company, whose address is as set forth in Section 14.01(b).

(d) The initial Trustee which shall serve as the Delaware Trustee is Wilmington Trust Company, whose address is as set forth in Section 14.01(c).

(e) Any action taken by the Holders of Common Securities pursuant to this Article 5 shall be taken at a meeting of the Holders of Common Securities convened for such purpose or by written consent as provided in Section 12.02.

(f) No amendment may be made to this Section 5.01 which would change any rights with respect to the number, existence or appointment and removal of Trustees, except with the consent of each Holder of Common Securities.

#### SECTION 5.02. Appointment, Removal and Resignation of the Trustees.

(a) Subject to Section 5.02(b), Trustees may be appointed or removed without cause at any time:

(i) until the issuance of the Securities, by written instrument executed by the Sponsor; and

(ii) after the issuance of the Securities by vote of the Holders of a Majority in liquidation amount of the Common Securities voting as a class.

(b) (i) The Trustee that acts as the Property Trustee shall not be removed in accordance with Section 5.02(a) until a Successor Trustee possessing the qualifications to act as the Property Trustee under Section 5.01(c) (a "Successor Property Trustee") has been appointed and has accepted such appointment by written instrument executed by such Successor Property Trustee and delivered to the Regular Trustees, the Sponsor and the Property Trustee being removed; and

(ii) the Trustee that acts as the Delaware Trustee shall not be removed in accordance with Section 5.02(a) until a successor Trustee possessing the qualifications to act as the Delaware Trustee under Section 5.01(a) (3) (a "Successor Delaware Trustee") has been appointed and has accepted such appointment by written instrument executed by such Successor Delaware Trustee and delivered to the Regular Trustees, the Sponsor and the Delaware Trustee being removed.

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(c) A Trustee appointed to office shall hold such office until his successor shall have been appointed or until his death, removal or resignation.

(d) Any Trustee may resign from office (without need for prior or subsequent accounting) by an instrument (a "Resignation Request") in writing signed by the Trustee and delivered to the Sponsor and the Trust, which resignation shall take effect upon such delivery or upon such later date as is specified therein; provided, however, that:

(i) no such resignation of the Trustee that acts as the Property Trustee shall be effective until:

(A) a Successor Property Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Property Trustee and delivered to the Regular Trustees, the Sponsor and the resigning Property Trustee; or

(B) if the Trust is excluded from the definition of an Investment Company solely by reason of Rule 3a-7, until the assets of the Trust have been completely liquidated and the proceeds thereof distributed to the Holders of the Securities; and

(ii) no such resignation of the Trustee that acts as the Delaware Trustee shall be effective until a Successor Delaware Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Delaware Trustee and delivered to the Regular Trustees, the Sponsor and the resigning Delaware Trustee.

(e) If no Successor Property Trustee or Successor Delaware Trustee shall have been appointed and accepted appointment as provided in this Section 5.02 within 60 days after delivery of a notice of removal or a Resignation Request, the Property Trustee or Delaware Trustee being removed of resigning as the case may be may petition any court of competent jurisdiction for appointment of a Successor Property Trustee or Successor Delaware Trustee, as the case may be. Such court may thereupon after prescribing such notice, if any, as it may deem proper and prescribe, appoint a Successor Property Trustee or Successor Delaware Trustee, as the case may be.

SECTION 5.03. Vacancies among the Trustees.

If a Trustee ceases to hold office for any reason and the number of Trustees is not reduced pursuant to Section 5.01 or if the number of Trustees is increased pursuant to Section 5.01, a vacancy shall occur. A resolution certifying the existence of such vacancy by a majority of the Regular Trustees shall be conclusive evidence of the existence of such vacancy. The vacancy shall be filled with a Trustee appointed in accordance with the requirements of this Article 5.

SECTION 5.04. Effect of Vacancies.

The death, resignation, retirement, removal, bankruptcy, dissolution, liquidation, incompetence or incapacity to perform the duties of a Trustee, or any one of them, shall not operate

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to dissolve, terminate or annul the Trust. Whenever a vacancy in the number of Regular Trustees shall occur until such vacancy is filled as provided in this Article 5, the Regular Trustees in office, regardless of their number, shall have all the powers granted to the Regular Trustees and shall discharge all the duties imposed upon the Regular Trustees by this Declaration.

SECTION 5.05. Meetings.

Meetings of the Regular Trustees shall be held from time to time upon the call of any Regular Trustee. Regular meetings of the Regular Trustees may be held at a time and place fixed by resolution of the Regular Trustees. Notice of any in-person meeting of the Regular Trustees shall be hand delivered or otherwise delivered in writing (including by facsimile, with a hard copy by overnight courier) not less than 48 hours before such meeting. Notice of any telephonic meeting of the Regular Trustees or any committee thereof shall be hand delivered or otherwise delivered in writing (including by facsimile, with a hard copy by overnight courier) not less than 24 hours before such meeting. Notices shall contain a brief statement of the time, place and anticipated purposes of the meeting. The presence (whether in person or by telephone) of a Regular Trustee at a meeting shall constitute a waiver of notice of such meeting except where a Regular Trustee attends a meeting for the express purpose of objecting to the transaction of any activity on the ground that the meeting has not been lawfully called or convened. Unless otherwise provided in this Declaration, any action of the Regular Trustees may be taken at a meeting by vote of a majority of the Regular Trustees present (whether in person or by telephone) and eligible to vote with respect to such matter, provided that a Quorum is present, or without a meeting by the unanimous written consent of the Regular Trustees.

SECTION 5.06. Delegation of Power.

(a) Any Regular Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the purpose of executing any registration statement or amendment thereto or other document or schedule filed with the Commission or making any other governmental filing (including, without limitation, the filings referred to in Section 3.13).

(b) The Regular Trustees shall have power to delegate from time to time to such of their number or to officers of the Trust the doing of such things and the execution of such instruments either in the name of the Trust or the names of the Regular Trustees or otherwise as the Regular Trustees may deem expedient, to the extent such delegation is not prohibited by applicable law or contrary to

the provisions of the Trust, as set forth herein.

SECTION 5.07. Merger, Conversion, Consolidation or Succession to Business.

Any Person into which the Property Trustee or the Delaware Trustee or any Regular Trustee that is not a natural person, as the case may be, may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Property Trustee or the Delaware Trustee or the Regular Trustees, as the case may be, shall be a party, or any Person succeeding to all or substantially all of the corporate trust business of the

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Property Trustee or the Delaware Trustee or any Regular Trustee, as the case may be, shall be the successor of the Property Trustee or the Delaware Trustee or that Regular Trustee, as the case may be, hereunder, provided that such Person shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

ARTICLE 6  
DISTRIBUTIONS

SECTION 6.01. Distributions.

Holder's shall receive periodic distributions, redemption payments and liquidation distributions in accordance with the applicable terms of the relevant Holder's Securities as set forth in Exhibits B and C hereto ("Distributions"). If and to the extent that Pogo makes a payment of interest (including Additional Interest and/or Compounded Interest (as defined in the Indenture)), premium and/or principal on the Debentures held by the Property Trustee (the amount of any such payment being a "Payment Amount"), the Property Trustee shall and is directed, to the extent funds are available for that purpose, to promptly make a Distribution of the Payment Amount to Holders in accordance with the terms of the Securities as set forth in Exhibits B and C hereto. The record dates and payment dates for Distributions shall be the same as the record dates and payment dates for the Debentures held by the Property Trustee.

ARTICLE 7  
ISSUANCE OF THE SECURITIES

SECTION 7.01. General Provisions Regarding the Securities.

(a) The Regular Trustees shall on behalf of the Trust issue Securities in fully registered form representing undivided beneficial interests in the assets of the Trust in accordance with Section 7.01(b) and for the consideration specified in Section 3.03.

(b) The Regular Trustees shall issue on behalf of the Trust one class of preferred securities representing preferred undivided beneficial interests in the assets of the Trust having such terms as are set forth in Exhibit B (the "Preferred Securities") hereto, which terms are incorporated by reference in, and made a part of, this Declaration as if specifically set forth herein, and one class of common securities representing common undivided beneficial interests in the assets of the Trust having such terms as are set forth in Exhibit C (the "Common Securities") hereto, which terms are incorporated by



reference in, and made a part of, this Declaration as if specifically set forth herein. The Trust shall have no securities or other interests in the assets of the Trust other than the Preferred Securities and the Common Securities.

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(c) The Certificates shall be signed on behalf of the Trust by the Regular Trustees (or if there are more than two Regular Trustees by any two of the Regular Trustees). Such signatures may be the manual or facsimile signatures of the present or any future Regular Trustee. Typographical and other minor errors or defects in any such reproduction of any such signature shall not affect the validity of any Certificate. In case any Regular Trustee who shall have signed any of the Certificates shall cease to be such Regular Trustee before the Certificate so signed shall be delivered by the Trust, such Certificate nevertheless may be delivered as though the person who signed such Certificate had not ceased to be such Regular Trustee; and any Certificate may be signed on behalf of the Trust by such persons as, at the actual date of the execution of such Certificate, shall be the Regular Trustees, although at the date of the execution and delivery of this Declaration any such person was not a Regular Trustee. Certificates shall be typewritten, printed, lithographed or engraved or may be produced in any other manner as is reasonably acceptable to the Regular Trustees, as evidenced by their execution thereof, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements as the Regular Trustees may deem appropriate, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any stock exchange or automated quotation system on which Securities may be listed or traded, or with any rule or regulation of the Clearing Agency, or to conform to usage. Pending the preparation of definitive Certificates, the Regular Trustees on behalf of the Trust may execute temporary Certificates (printed, lithographed or typewritten), in substantially the form of the definitive Certificates in lieu of which they are issued, but with such omissions, insertions and variations as may be appropriate for temporary Certificates, all as may be determined by the Regular Trustees. Each temporary Certificate shall be executed by the Regular Trustees (or, if there are more than two Regular Trustees, by any two of the Regular Trustees) on behalf of the Trust upon the same conditions and in substantially the same manner, and with like effect, as definitive Certificates. Without unnecessary delay, the Regular Trustees on behalf of the Trust will execute and furnish definitive Certificates and thereupon any or all temporary Certificates may be surrendered to the transfer agent and registrar in exchange therefor (without charge to the Holders). Each Preferred Security Certificate whether in temporary or definitive form shall be countersigned upon receipt of a written order of the Trust signed by one Regular Trustee, by the manual signature of an authorized signatory of the Person acting as registrar and transfer agent for the Preferred Securities, which shall initially be the Property Trustee.

(d) The consideration received by the Trust for the issuance of the Securities shall constitute a contribution to the capital of the Trust and shall not constitute a loan to the Trust.

(e) Upon issuance of the Securities as provided in this Declaration, the Securities so issued shall be deemed to be validly issued, fully paid and non-assessable.

(f) Every Person, by virtue of having become a Holder or a Preferred Security Beneficial Owner in accordance with the terms of this Declaration, shall be deemed to have expressly assented and agreed to the terms of, and shall be bound by this Declaration.

(g) Upon issuance of the Securities as provided in this Declaration, the Regular Trustees on behalf of the Trust shall return to Pogo the \$10



constituting initial trust assets as set forth in the Original Declaration.

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SECTION 7.02. Conversion Agent.

The Trust shall maintain an office or agency where Preferred Securities may be presented for conversion into Common Stock in accordance with the terms of the Preferred Securities as set forth in Exhibit B hereto ("Conversion Agent"). The Trust may appoint the Conversion Agent and may appoint one or more additional Conversion Agents in such other locations as it may determine. The term "Conversion Agent" includes any additional Conversion Agent. The Trust may change any Conversion Agent without prior notice to any Holders. If the Trust fails to appoint or maintain another entity as Conversion Agent, the Property Trustee will act as such. The Trust or any of its Affiliates may act as Conversion Agent. The Conversion Agent shall be entitled to the rights and protections extended to the Property Trustee when acting in such capacity.

The Property Trustee is hereby initially appointed as the Conversion Agent for the Preferred Securities.

ARTICLE 8  
DISSOLUTION OF THE TRUST

SECTION 8.01. Dissolution of the Trust.

The Trust shall dissolve:

(i) when all of the Securities shall have been called for redemption and the amounts necessary for redemption thereof shall have been paid to the Holders of the Securities in accordance with the terms of the Securities; or

(ii) when all of the Debentures shall have been distributed to the Holders of the Securities in exchange for all of the Securities in accordance with the terms of the Securities; or

(iii) upon the expiration of the term of the Trust as set forth in Section 3.17; or

(iv) upon a decree of judicial dissolution; or

(v) upon the distribution of Common Stock to all Securities Holders upon conversion of all outstanding Securities.

Upon dissolution and the completion of the winding up of the affairs of the Trust, the Trust and this Declaration shall terminate when a certificate of cancellation is filed by the Trustees with the Secretary of State of the State of Delaware. The Trustees shall so file such a certificate as soon as practicable after the occurrence of an event referred to in this Section 8.01.

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The provisions of Sections 3.12 and 4.02 and Article 10 shall survive the dissolution and termination of the Trust and this Declaration.

ARTICLE 9

SECTION 9.01. Transfer of Securities.

(a) Securities may only be transferred, in whole or in part, in accordance with the terms and conditions set forth in this Declaration and in the terms of the Securities. To the fullest extent permitted by law, any transfer or purported transfer of any Security not made in accordance with this Declaration shall be null and void.

(b) Subject to this Article 9, Preferred Securities shall be freely transferable.

(c) The Holder of the Common Securities may not transfer the Common Securities except (a) in connection with transactions permitted under Section 10.01 of the Indenture, or (b) to the Sponsor or a Related Party of the Sponsor; provided that, any such transfer is subject to the condition precedent that the transferor obtain the written opinion of nationally recognized independent counsel experienced in such matters that such transfer would not cause more than an insubstantial risk that: (i) the Trust would not be classified for United States Federal income tax purposes as a grantor trust; and (ii) the Trust would be an Investment Company required to register under the Investment Company Act or the transferee would become an Investment Company required to register under the Investment Company Act. To the fullest extent permitted by law, any attempted transfer of the Common Securities other than as set forth in the immediately preceding sentence shall be null and void.

SECTION 9.02. Transfer of Certificates.

The Regular Trustees shall provide for the registration of Certificates and of transfers of Certificates, which will be effected without charge but only upon payment (with such indemnity as the Regular Trustees may require) in respect of any tax or other government charges which may be imposed in relation to it. Upon surrender for registration of transfer of any Certificate, the Regular Trustees shall cause one or more new Certificates to be issued in the name of the designated transferee or transferees. Every Certificate surrendered for registration of transfer shall be accompanied by a written instrument of transfer in form satisfactory to the Regular Trustees duly executed by the Holder or such Holder's attorney duly authorized in writing. Each Certificate surrendered for registration of transfer shall be canceled by the Regular Trustees. A transferee of a Certificate shall be entitled to the rights and subject to the obligations of a Holder hereunder upon the receipt by such transferee of a Certificate. By acceptance of a Certificate, each transferee shall be deemed to have agreed to be bound by this Declaration.

SECTION 9.03. Deemed Security Holders.

The Trustees may treat the Person in whose name any Certificate shall be registered on the books and records of the Trust as the sole holder of such Certificate and of the Securities represented by such Certificate for purposes of receiving Distributions and for all other purposes whatsoever and,

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accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Certificate or in the Securities represented by such Certificate on the part of any Person, whether or not the Trustees shall have actual or other notice thereof.

SECTION 9.04. Book Entry Interests.

Unless otherwise specified in the terms of the Preferred Securities, the Preferred Security Certificates, on original issuance will be issued in the form of one or more, fully registered, global Preferred Security Certificates (each a "Global Certificate"), to be delivered to DTC, the initial Clearing Agency, by, or on behalf of, the Trust. Such Global Certificates shall initially be registered on the books and records of the Trust in the name of Cede & Co., the nominee of DTC, and no Preferred Security Beneficial Owner will receive a definitive Preferred Security Certificate representing such Preferred Security Beneficial Owner's interests in such Global Certificates, except as provided in Section 9.07. Unless and until definitive, fully registered Preferred Security Certificates (the "Definitive Preferred Security Certificates") have been issued to the Preferred Security Beneficial Owners pursuant to Section 9.07:

(i) the provisions of this Section 9.04 shall be in full force and effect;

(ii) the Trust and the Trustees shall be entitled to deal with the Clearing Agency for all purposes of this Declaration (including the payment of Distributions on the Global Certificates and receiving approvals, votes or consents hereunder) as the Holder of the Preferred Securities and the sole holder of the Global Certificates and, except as set forth herein in Section 9.07 or in Rule 3a-7 (if the Trust is excluded from the definition of an Investment Company solely by reason of Rule 3a-7) with respect to the Property Trustee, shall have no obligation to the Preferred Security Beneficial Owners;

(iii) to the extent that the provisions of this Section 9.04 conflict with any other provisions of this Declaration, the provisions of this Section 9.04 shall control; and

(iv) the rights of the Preferred Security Beneficial Owners shall be exercised only through the Clearing Agency and shall be limited to those established by law and agreements between such Preferred Security Beneficial Owners and the Clearing Agency and/or the Clearing Agency Participants. DTC will make book entry transfers among the Clearing Agency Participants and receive and transmit payments of Distributions on the Global Certificates to such Clearing Agency Participants, provided, that solely for the purposes of determining whether the Holders of the requisite amount of Preferred Securities have voted on any matter provided for in this Declaration, so long as definitive Preferred Security Certificates have not been issued (pursuant to Section 9.07 hereof), the Trustees may conclusively rely on, and shall be protected in relying on, any written instrument (including a proxy) delivered to the Trustees by the Clearing Agency setting forth the Preferred Security Beneficial Owners' votes or assigning the right to vote on any matter to any other Persons either in whole or in part.

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#### SECTION 9.05. Notices to Holders of Certificates.

Whenever a notice or other communication to the Holders is required to be given under this Declaration, unless and until Definitive Preferred Security Certificates shall have been issued pursuant to Section 9.07, the relevant Trustees shall give all such notices and communications, specified herein to be given to Holders of Preferred Securities, to the Clearing Agency and, with respect to any Preferred Security Certificate registered in the name of a Clearing Agency or the nominee of a Clearing Agency, the Trustees shall, except in Rule 3a-7 (if the Trust is excluded from the definition of an Investment Company solely by reason of Rule 3a-7) with respect to the Property Trustee,

have no notice obligations to the Preferred Security Beneficial Owners.

SECTION 9.06. Appointment of Successor Clearing Agency.

If any Clearing Agency elects to discontinue its services as securities depository with respect to the Preferred Securities, the Regular Trustees may, in their sole discretion, appoint a successor Clearing Agency with respect to the Preferred Securities.

SECTION 9.07. Definitive Preferred Securities Certificates.

If (i) a Clearing Agency elects to discontinue its services as securities depository with respect to the Preferred Securities and a successor Clearing Agency is not appointed within 90 days after such discontinuance pursuant to Section 9.06 or (ii) the Regular Trustees elect after consultation with the Sponsor to terminate the book entry system through the Clearing Agency with respect to the Preferred Securities, then (x) Definitive Preferred Security Certificates shall be prepared by the Regular Trustees on behalf of the Trust with respect to such Preferred Securities and (y) upon surrender of the Global Certificates by the Clearing Agency, accompanied by registration instructions, the Regular Trustees shall cause Definitive Preferred Security Certificates to be delivered to Preferred Security Beneficial Owners in accordance with the instructions of the Clearing Agency. Neither the Trustees nor the Trust shall be liable for any delay in delivery of such instructions and each of them may conclusively rely on, and shall be protected in relying on, such instructions.

SECTION 9.08. Mutilated, Destroyed, Lost or Stolen Certificates.

If (a) any mutilated Certificates should be surrendered to the Regular Trustees, or if the Regular Trustees shall receive evidence to their satisfaction of the destruction, loss or theft of any Certificate; and (b) there shall be delivered to the Regular Trustees such security or indemnity as may be required by them to keep each of them and the Trust harmless, then in the absence of notice that such Certificate shall have been acquired by a bona fide purchaser, the Regular Trustees (or if there are more than two Regular Trustees by any two of the Regular Trustees) on behalf of the Trust shall execute and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Certificate, a new Certificate of like denomination. In connection with the issuance of any new Certificate under this Section 9.08, the Regular Trustees may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Certificate issued pursuant to this section shall constitute conclusive evidence of an

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ownership interest in the relevant Securities, as if originally issued, whether or not the lost, stolen or destroyed Certificate shall be found at any time.

ARTICLE 10  
LIMITATION OF LIABILITY; INDEMNIFICATION

SECTION 10.01. Exculpation.

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Trust or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Declaration or by law, except that

an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's gross negligence (or, in the case of the Property Trustee, negligence) or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses or any other facts pertinent to the existence and amount of assets from which Distributions to Holders of Securities might properly be paid.

(c) Pursuant to ss. 3803(a) of the Business Trust Act, the Holders of Securities, in their capacities as Holders, shall be entitled to the same limitation of liability that is extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

#### SECTION 10.02. Indemnification.

(a) To the fullest extent permitted by applicable law, the Sponsor shall indemnify and hold harmless each Indemnified Person from and against any loss, damage or claim incurred by such Indemnified Person by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of authority conferred on such Indemnified Person by this Declaration, except that no Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Indemnified Person by reason of gross negligence (or, in the case of the Property Trustee, negligence) or willful misconduct with respect to such acts or omissions.

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(b) The provisions of this Section 10.02 shall survive the termination of this Declaration or the resignation or removal of any Trustee.

#### SECTION 10.03. Outside Business.

The Sponsor and any Trustee (in the case of the Property Trustee, subject to Section 5.01(c)) may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders of Securities shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. Neither the Sponsor nor any Trustee shall be obligated to present any particular investment or other opportunity to the Trust even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and the Sponsor or any Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor or may act as depository for, trustee or agent for, or act on any committee or body of holders of, securities or other obligations of the Sponsor or any of its Affiliates.

ARTICLE 11  
ACCOUNTING

SECTION 11.01. Fiscal Year.

The fiscal year ("Fiscal Year") of the Trust shall be the calendar year, or such other year as is required by the Code.

SECTION 11.02. Certain Accounting Matters.

(a) At all times during the existence of the Trust, the Regular Trustees shall keep, or cause to be kept, full books of account, records and supporting documents, which shall reflect in reasonable detail each transaction of the Trust. The books of account shall be maintained on the accrual method of accounting, in accordance with generally accepted accounting principles, consistently applied. The Trust shall use the accrual method of accounting for United States Federal income tax purposes.

(b) If required by applicable law, the Regular Trustees shall, as soon as available after the end of each Fiscal Year of the Trust, cause to be prepared and mailed to each Holder of Securities unaudited financial statements of the Trust for such Fiscal Year, prepared in accordance with generally accepted accounting principles; provided that if the Trust is required to comply with the periodic reporting requirements of Section 13(a) or 15(d) of the Exchange Act, such financial

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statements for such Fiscal Year shall be examined and reported on by a firm of independent certified public accountants selected by the Regular Trustees (which firm may be the firm used by the Sponsor).

(c) The Regular Trustees shall cause to be duly prepared and mailed to each Holder of Securities any annual United States Federal income tax information statement required by the Code, containing such information with regard to the Securities held by each Holder as is required by the Code and the Treasury Regulations. Notwithstanding any right under the Code to deliver any such statement at a later date, the Regular Trustees shall endeavor to deliver all such statements within 30 days after the end of each Fiscal Year of the Trust.

(d) The Regular Trustees shall cause to be duly prepared and filed with the appropriate taxing authority an annual United States Federal income tax return, on such form as is required by the Code, and any other annual income tax returns required to be filed by the Regular Trustees on behalf of the Trust with any state or local taxing authority.

SECTION 11.03. Banking.

The Trust shall maintain one or more bank accounts in the name and for the sole benefit of the Trust; provided, however, that all payments of funds in respect of the Debentures held by the Property Trustee shall be made directly to the Property Account and no other funds from the Trust shall be deposited in the Property Account. The sole signatories for such accounts shall be designated by the Regular Trustees; provided, however, that the Property Trustee shall designate the sole signatories for the Property Account.

SECTION 11.04. Withholding.

The Trust and the Trustees shall comply with all withholding requirements under United States Federal, State and local law. The Regular Trustees shall request, and the Holders shall provide to the Trust, such forms or certificates as are necessary to establish an exemption from withholding with

respect to each Holder, and any representations and forms as shall reasonably be requested by the Regular Trustees to assist them in determining the extent of, and in fulfilling, the Trust's withholding obligations. The Trust shall file required forms with applicable jurisdictions and, unless an exemption from withholding is properly established by a Holder, shall remit amounts withheld with respect to the Holder to applicable jurisdictions. To the extent that the Trust is required to withhold and pay over any amounts to any authority with respect to Distributions or allocations to any Holder, the amount withheld shall be deemed to be a Distribution in the amount of the withholding to the Holder. In the event of any claimed overwithholding, Holders shall be limited to an action against the applicable jurisdiction. If the amount to be withheld was not withheld from a Distribution, the Trust may reduce subsequent Distributions by the amount of such withholding.

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ARTICLE 12  
AMENDMENTS AND MEETINGS

SECTION 12.01. Amendments.

(a) Except as otherwise provided in this Declaration or by any applicable terms of the Securities, this Declaration may be amended by, and only by, a written instrument executed by a majority of the Regular Trustees; provided, however, that (i) no amendment or modification to this Declaration shall be made, and any such purported amendment shall be void and ineffective: (A) unless the Property Trustee shall have first received: (x) an Officers' Certificate that such amendment is permitted by, and conforms to, the terms of this Declaration; and (y) an Opinion of Counsel that such amendment is permitted by, and conforms to, the terms of this Declaration and that all conditions precedent, if any, in this Declaration to the execution and delivery of such amendment have been satisfied; and (B) to the extent the result of such amendment would be to: (x) cause the Trust to fail to continue to be classified for purposes of United States Federal income taxation as a grantor trust; (y) reduce or otherwise adversely affect the rights or powers of the Property Trustee in contravention of the Trust Indenture Act; or (z) cause the Trust to be deemed to be an Investment Company required to be registered under the Investment Company Act; (ii) at such time after the Trust has issued any Securities which remain outstanding, any amendment which would adversely affect the rights, privileges or preferences of any Holder of Securities may be effected only with such additional requirements as may be set forth in the terms of such Securities; (iii) Section 4.02, Section 9.01(c), this Section 12.01 and the distribution rate and conversion provisions of the Securities as set forth in Exhibits B and C hereto shall not be amended without the consent of all of the Holders of the Securities; (iv) no amendment which adversely affects the rights, powers and privileges of the Property Trustee or the Delaware Trustee shall be made without the consent of the Property Trustee or the Delaware Trustee, respectively; (v) Article 4 shall not be amended without the consent of the Sponsor; and (vi) the rights of the Holders of Common Securities under Article 5 to increase or decrease the number of, and to appoint, replace or remove, Trustees shall not be amended without the consent of each Holder of Common Securities.

(b) Notwithstanding Section 12.02(a), this Declaration may be amended without the consent of the Holders of the Securities to (i) cure any ambiguity, (ii) correct or supplement any provision in this Declaration that may be defective or inconsistent with any other provision of this Declaration, (iii) add to the covenants, restrictions or obligations of the Sponsor, (iv) conform to any changes in Rule 3a-5 or Rule 3a-7 (if the Trust is excluded from the definition of an Investment Company solely by reason of Rule 3a-5 or Rule 3a-7) or any change in interpretation or application of



Rule 3a-5 or Rule 3a-7 (if the Trust is excluded from the definition of an Investment Company solely by reason of Rule 3a-5 or Rule 3a-7) by the Commission, (v) make any other provisions with respect to matters or questions arising under this Declaration which shall not be inconsistent with the other provisions of this Declaration, (vi) modify, eliminate or add to any provisions of this Declaration to such extent as shall be necessary to ensure that the Trust will be classified for United States federal income tax purposes as a grantor trust at all times that any Securities are outstanding or to ensure that the Trust will not be required to register as an Investment Company under the Investment Company Act, and (vii) pursuant to Section 5.02, evidence the acceptance of the appointment of a successor Trustee or fill a vacancy created by an

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increase in the number of Regular Trustees, in each case which amendment does not adversely affect in any material respect the rights, preferences or privileges of the Holders.

SECTION 12.02. Meetings of the Holders of Securities; Action by Written Consent.

(a) Meetings of the Holders of Preferred Securities and/or Common Securities may be called at any time by the Regular Trustees (or as provided in the terms of the Securities) to consider and act on any matter on which the Holders of such class of Securities are entitled to act under the terms of this Declaration, the terms of the Securities or the rules of any stock exchange or automated quotation system on which the Preferred Securities are then listed, traded or quoted. The Regular Trustees shall call a meeting of the Holders of Preferred Securities or Common Securities, if directed to do so by Holders of at least 10% in liquidation amount of such class of Securities. Such direction shall be given by delivering to the Regular Trustees one or more notices in writing stating that the signing Holders of Securities wish to call a meeting and indicating the general or specific purpose for which the meeting is to be called. Any Holders of Securities calling a meeting shall specify in writing the Certificates held by the Holders of Securities exercising the right to call a meeting and only those specified Certificates shall be counted for purposes of determining whether the required percentage set forth in the second sentence of this paragraph has been met.

(b) Except to the extent otherwise provided in the terms of the Securities, the following provision shall apply to meetings of the Holders of Securities:

(i) Notice of any such meeting shall be given by mail to all the Holders of Securities having a right to vote thereat not less than seven (7) days nor more than sixty (60) days prior to the date of such meeting. Whenever a vote, consent or approval of the Holders of Securities is permitted or required under this Declaration or the rules of any stock exchange or automated quotation system on which the Preferred Securities are then listed, traded or quoted, such vote, consent or approval may be given at a meeting of the Holders of Securities. Any action that may be taken at a meeting of the Holders of Securities may be taken without a meeting and without prior notice if a consent in writing setting forth the action so taken is signed by Holders of Securities owning not less than the minimum aggregate liquidation amount of Securities that would be necessary to authorize or take such action at a meeting at which all Holders of Securities having a right to vote thereon were present and voting. Prompt notice of the taking of action without a meeting shall be given to the Holders of Securities entitled to vote who have not consented in writing. The Regular Trustees may specify that any written



ballot submitted to the Holders of Securities for the purpose of taking any action without a meeting shall be returned to the Trust within the time specified by the Regular Trustees.

(ii) Each Holder of a Security may authorize any Person to act for it by proxy on all matters in which a Holder of a Security is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Holder of the Security executing it. Except as otherwise provided herein or in the terms of the Securities, all matters relating to the

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giving, voting or validity of proxies shall be governed by the General Corporation Law of the State of Delaware relating to proxies, and judicial interpretations thereunder, as if the Trust were a Delaware corporation and the Holders of the Securities were stockholders of a Delaware corporation.

(iii) Each meeting of the Holders of the Securities shall be conducted by the Regular Trustees or by such other Person that the Regular Trustees may designate.

(iv) Unless otherwise provided in the Business Trust Act, this Declaration or the rules of any stock exchange or automated quotation system on which the Preferred Securities are then listed, traded or quoted, the Regular Trustees, in their sole discretion, shall establish all other provisions relating to meetings of Holders of Securities, including notice of the time, place or purpose of any meeting at which any matter is to be voted on by any Holders of Securities, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

#### ARTICLE 13

##### REPRESENTATIONS OF THE PROPERTY TRUSTEE AND THE DELAWARE TRUSTEE

##### SECTION 13.01. Representations and Warranties of the Property Trustee.

The Trustee which acts as the initial Property Trustee represents and warrants to the Trust and to the Sponsor at the date of this Declaration, and each Successor Property Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Property Trustee's acceptance of its appointment as the Property Trustee that:

(i) The Property Trustee is a national banking association or a banking corporation with trust powers, duly organized, validly existing and in good standing under the laws of the United States or the laws of the state of its incorporation, with trust power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Declaration.

(ii) The execution, delivery and performance by the Property Trustee of this Declaration have been duly authorized by all necessary corporate action on the part of the Property Trustee. This Declaration has been duly executed and delivered by the Property Trustee, and constitutes a legal, valid and binding obligation of the Property Trustee, enforceable against it in accordance with its terms, subject to

applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law).

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(iii) The execution, delivery and performance of this Declaration by the Property Trustee does not conflict with or constitute a breach of the charter or by-laws of the Property Trustee.

(iv) No consent, approval or authorization of, or registration with or notice to, any banking authority which supervises or regulates the Property Trustee is required for the execution, delivery or performance by the Property Trustee of this Declaration.

(v) The Property Trustee satisfies the qualifications set forth in Section 5.01(c).

#### SECTION 13.02. Representations and Warranties of the Delaware Trustee.

The Trustee which acts as the initial Delaware Trustee represents and warrants to the Trust and the Sponsor at the date of this Declaration, and each Successor Delaware Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Delaware Trustee's acceptance of its appointment as the Delaware Trustee, that:

(i) The Delaware Trustee is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with corporate power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Declaration.

(ii) The execution, delivery and performance by the Delaware Trustee of this Declaration have been duly authorized by all necessary corporate action on the part of the Delaware Trustee. This Declaration has been duly executed and delivered by the Delaware Trustee and constitutes a legal, valid and binding obligation of the Delaware Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law).

(iii) No consent, approval or authorization of, or registration with or notice to, any banking authority which supervises or regulates the Delaware Trustee, if any, is required for the execution, delivery or performance by the Delaware Trustee of this Declaration.

(iv) The Delaware Trustee is a natural person who is a resident of the State of Delaware or, if not a natural person, an entity which has its principal place of business in the State of Delaware and is a Person that satisfies for the Trust ss. 3807(a) of the Business Trust Act.

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#### ARTICLE 14 MISCELLANEOUS

SECTION 14.01. Notices.

All notices provided for in this Declaration shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied or mailed by first class mail, as follows:

(a) if given to the Trust, in care of the Regular Trustees at the Trust's mailing address set forth below (or such other address as the Regular Trustees on behalf of the Trust may give notice of to the Holders of the Securities):

Pogo Trust I  
c/o Pogo Producing Company  
5 Greenway Plaza, Suite 2700  
Houston, Texas 77046  
Attention: Corporate Secretary  
Telecopy: (713) 297-4970

(b) if given to the Property Trustee, at the mailing address of the Property Trustee set forth below (or such other address as the Property Trustee may give notice of to the Holders of the Securities):

Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19810  
Attention: Corporate Trust Administration  
Telecopy: (302) 651-8882

(c) if given to the Delaware Trustee, at the mailing address of the Delaware Trustee set forth below (or such other address as the Delaware Trustee may give notice of to the Holders of the Securities):

Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19810  
Attention: Corporate Trust Administration  
Telecopy: (302) 651-8882

(d) if given to the Holder of the Common Securities, at the mailing address of the Sponsor set forth below (or such other address as the Holder of the Common Securities may give notice of to the Trust):

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Pogo Producing Company  
5 Greenway Plaza, Suite 2700  
Houston, Texas 77046  
Attention: Corporate Secretary  
Telecopy: (713) 297-4970

(e) if given to any other Holder, at the address set forth on the books and records of the Trust.

A copy of any notice to the Property Trustee or the Delaware Trustee shall also be sent to the Trust. All notices shall be deemed to have been given, when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

SECTION 14.02. Undertaking for Costs.

All parties to this Declaration agree, and each Holder of any Securities by his or her acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Declaration, or in any suit against the Property Trustee for any action taken or omitted by it as Property Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 14.02 shall not apply to any suit instituted by the Property Trustee, to any suit instituted by any Holder of Preferred Securities, or group of Holders of Preferred Securities, holding more than 10% in aggregate liquidation amount of the outstanding Preferred Securities, or to any suit instituted by any Holder of Preferred Securities for the enforcement of the payment of the principal of (or premium, if any) or interest on the Debentures, on or after the respective due dates expressed in such Debentures.

SECTION 14.03. Governing Law.

This Declaration, the Securities and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

SECTION 14.04. Headings.

Headings contained in this Declaration are inserted for convenience of reference only and do not affect the interpretation of this Declaration or any provision hereof.

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SECTION 14.05. Partial Enforceability.

If any provision of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to Persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 14.06. Counterparts.

This Declaration may contain more than one counterpart of the signature pages and this Declaration may be executed by the affixing of the signature of the Sponsor and each of the Trustees to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

SECTION 14.07. Intention of the Parties.

It is the intention of the parties hereto that the Trust not be classified for United States Federal income tax purposes as an association taxable as a corporation or partnership but that the Trust be treated as a grantor trust for United States federal income tax purposes. The provisions of this Declaration shall be interpreted to further this intention of the parties.

SECTION 14.08. Successors and Assigns.

Whenever in this Declaration any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included, and all covenants and agreements in this Declaration by the Sponsor and the Trustees shall bind and inure to the benefit of their respective successors and assigns, whether so expressed.

SECTION 14.09. No Recourse.

The Trust's obligations hereunder are intended to be the obligations of the Trust and no recourse for the payment of Distributions, or for any claim upon the Securities or otherwise in respect thereof, shall be had against any Holder of Securities or any Affiliate of a Holder of Securities, solely by reason of such Person's being a Holder of Securities or an Affiliate of a Holder of Securities, it being understood that the Holder of Securities, solely by reason of being a Holder of Securities, has limited liability (in accordance with the provisions of the Business Trust Act) for the liabilities and obligations of the Trust. Nothing contained in this Section 14.09 shall be construed to limit the exercise or enforcement, in accordance with the terms of this Declaration, the Preferred Guarantee and the Indenture, of the rights and remedies against the Trust or the Sponsor.

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IN WITNESS WHEREOF, the undersigned has caused these presents to be executed as of the day and year first above written.

POGO PRODUCING COMPANY,  
as Sponsor

By: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
John O. McCoy, Jr.,  
as Regular Trustee

\_\_\_\_\_  
John W. Elsenhans,  
as Regular Trustee

\_\_\_\_\_  
Gerald A. Morton,  
as Regular Trustee

WILMINGTON TRUST COMPANY,  
not in its individual capacity,  
but solely as Property Trustee

By: \_\_\_\_\_  
Name:  
Title:

WILMINGTON TRUST COMPANY,  
not in its individual capacity,  
but solely as Delaware Trustee

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT A

CERTIFICATE OF TRUST  
OF  
POGO TRUST I

THIS CERTIFICATE OF TRUST of Pogo Trust I (the "Trust"), dated as of March 17, 1999, is being duly executed and filed by the undersigned, as trustees, with the Secretary of State of the State of Delaware to form a business trust under the Delaware Business Trust Act (12 Del. Code ss. 3801 et seq.).

1. Name. The name of the business trust being formed hereby is Pogo Trust I.

2. Delaware Trustee. The name and business address of the trustee of the Trust with a principal place of business in the State of Delaware are Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19810.

3. Effective Date. This Certificate of Trust shall be effective at the time of its filing with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, the undersigned, being all of the trustees of the Trust at the time of filing this Certificate of Trust, have executed this Certificate of Trust as of the date first above written.

WILMINGTON TRUST COMPANY,  
as Delaware Trustee

By: \_\_\_\_\_  
Name:  
Title:

WILMINGTON TRUST COMPANY,  
as Property Trustee

By: \_\_\_\_\_  
Name:  
Title:

GERALD A. MORTON,  
as Regular Trustee

By: \_\_\_\_\_

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TERMS OF  
PREFERRED SECURITIES

Pursuant to Section 7.01(b) of the Amended and Restated Declaration of Trust of Pogo Trust I dated as of June 2, 1999 (as amended from time to time, the "Declaration"), the designations, rights, privileges, restrictions, preferences and other terms and provisions of the Preferred Securities are set forth below (each capitalized term used but not defined herein having the meaning set forth in the Declaration):

1. Designation and Number. Three million (3,000,000) Preferred Securities of the Trust with an aggregate liquidation amount at any time outstanding with respect to the assets of the Trust of One Hundred Fifty Million Dollars (\$150,000,000), and each with a liquidation amount with respect to the assets of the Trust of \$50 per Preferred Security, are hereby designated as "6 1/2% Cumulative Quarterly Income Convertible Preferred Securities, Series A". The Preferred Security Certificates evidencing the Preferred Securities shall be substantially in the form attached hereto as Annex I, with such changes and additions thereto or deletions therefrom as may be required by ordinary usage, custom or practice or to conform to the rules of any stock exchange or automated quotation system on which the Preferred Securities are then listed, traded or quoted. In connection with the issuance and sale of the Preferred Securities and the Common Securities, the Trust will purchase as trust assets Debentures of Pogo having an aggregate principal amount equal to the aggregate liquidation amount of the Preferred Securities and the Common Securities so issued and bearing interest at an annual rate equal to the annual Distribution rate on the Preferred Securities and the Common Securities and having payment and redemption provisions which correspond to the payment and redemption provisions of the Preferred Securities and the Common Securities.

2. Distributions. (a) Distributions payable on each Preferred Security will be fixed at a rate per annum of 6 1/2% (the "Coupon Rate") of the stated liquidation amount of \$50 per Preferred Security, such rate being the rate of interest payable on the Debentures to be held by the Property Trustee. Distributions in arrears for more than one calendar quarter will accumulate additional distributions thereon at the Coupon Rate per annum (to the extent permitted by applicable law), compounded quarterly. The term "Distributions" as used herein means such periodic cash distributions and any such additional distributions payable unless otherwise stated. A Distribution will be made by the Property Trustee only to the extent that interest payments are made in respect of the Debentures held by the Property Trustee and to the extent the Trust has funds on hand legally available therefor. The amount of Distributions payable for any period will be computed for any full quarterly Distribution period on the basis of a 360-day year of twelve 30-day months, and for any period shorter than a full quarterly Distribution period for which Distributions are computed, Distributions will be computed on the basis of the actual number of days elapsed per 90-day quarter.

(b) Distributions on the Preferred Securities will accumulate from June 2, 1999 and will be payable quarterly in arrears, on March 1, June 1, September 1 and December 1 of each year, commencing on September 1, 1999, except as otherwise described below, but only if and to the extent that interest payments are made in respect of the Debentures held by the Property Trustee. So long as Pogo shall not be in default in the payment of interest on the



Debentures, Pogo has the right under the Indenture for the Debentures to defer payments of interest on the Debentures by extending the interest payment period at any time and from time to time on the Debentures for a period not exceeding 20 consecutive quarterly interest periods (each, an "Extension Period"), during which Extension Period no interest shall be due and payable on the Debentures. As a consequence of such deferral, Distributions shall also be deferred. Despite such deferral, Distributions will continue to accumulate with additional distributions thereon (to the extent permitted by applicable law but not at a rate greater than the rate at which interest is then accruing on the Debentures) at the Coupon Rate compounded quarterly during any such Extension Period; provided that no Extension Period shall extend beyond the stated maturity of the Debentures or the date on which Debentures are redeemed. Prior to the termination of any such Extension Period, Pogo may further extend such Extension Period; provided that such Extension Period together with all such previous and further extensions thereof may not exceed 20 consecutive quarterly interest periods. Upon the termination of any Extension Period and the payment of all amounts then due, Pogo may commence a new Extension Period, subject to the above requirements. On the Distribution payment date at the end of an Extension Period, payments of accumulated Distributions will be payable to Holders of Preferred Securities as they appear on the books and records of the Trust (regardless of who the Holders may have been on other dates during the Extension Period) on the record date for such Distribution payment date.

(c) Distributions on the Preferred Securities will be payable promptly by the Property Trustee (or other Paying Agent) upon receipt of immediately available funds to the Holders thereof as they appear on the books and records of the Trust on the relevant record dates. While the Preferred Securities remain in book-entry only form, the relevant record dates shall be one business day prior to the relevant Distribution date, and if the Preferred Securities are no longer in book-entry only form, the relevant record dates will be the fifteenth (15th) day of the month prior to the relevant Distribution date, which record and payment dates correspond to the record and interest payment dates on the Debentures. Distributions payable on any Preferred Securities that are not punctually paid on any Distribution payment date as a result of Pogo's having failed to make the corresponding interest payment on the Debentures will forthwith cease to be payable to the person in whose name such Preferred Security is registered on the relevant record date, and such defaulted Distribution will instead be payable to the person in whose name such Preferred Security is registered on the special record date established by the Regular Trustees, which record date shall correspond to the special record date or other specified date determined in accordance with the Indenture; provided, however, that Distributions shall not be considered payable on any Distribution payment date falling within an Extension Period unless Pogo has elected to make a full or partial payment of interest accrued on the Debentures on such Distribution payment date. Subject to any applicable laws and regulations and the provisions of the Declaration, each payment in respect of the Preferred Securities will be made as described in section 9 hereof. If any date on which Distributions are payable on the Preferred Securities is not a Business Day, then payment of the Distribution payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day is in the next succeeding calendar year, such payment shall be made on the immediately preceding

Business Day, in each case with the same force and effect as if made on the

date such payment was originally payable. Notwithstanding anything herein to the contrary, the record dates and payment dates for Distributions shall be the same as the record dates and payment dates for the Debentures.

(d) All Distributions paid with respect to the Preferred Securities and the Common Securities will be paid Pro Rata (as defined below) to the Holders thereof entitled thereto. If an Event of Default has occurred and is continuing, the Preferred Securities shall have a priority over the Common Securities with respect to Distributions.

(e) In the event of an election by the Holder to convert its Preferred Securities through the Conversion Agent into Common Stock pursuant to the terms of the Preferred Securities as set forth in this Exhibit B to the Declaration, no payment, allowance or adjustment shall be made with respect to accumulated and unpaid Distributions on such Preferred Securities, or be required to be made; provided, however, that if a Preferred Security is surrendered for conversion after the close of business on any regular record date for payment of a Distribution and before the opening of business on the corresponding Distribution date, then, notwithstanding such conversion, the Distribution payable on such Distribution date will be paid in cash to the person in whose name the Preferred Security is registered at the close of business on such record date.

(f) In the event that there is any money or other property held by or for the Trust that is not accounted for under the Declaration, such money or property shall be distributed Pro Rata among the Holders of the Preferred Securities and the Common Securities.

3. Liquidation Distribution Upon Dissolution. (a) In the event of any voluntary or involuntary dissolution of the Trust, the Holders of the Preferred Securities and the Common Securities will be entitled to receive Pro Rata solely out of the assets of the Trust legally available for distribution to Holders of Preferred Securities and Common Securities after satisfaction of liabilities to the creditors of the Trust, an amount equal to the aggregate of the stated liquidation amount of \$50 per Preferred Security and Common Security plus accumulated and unpaid Distributions thereon to the date of payment (such amount being the "Liquidation Distribution"), unless, in connection with such dissolution and after satisfaction of liabilities to the creditors of the Trust, Debentures in an aggregate principal amount equal to the aggregate stated liquidation amount of such Preferred Securities and the Common Securities and bearing accrued and unpaid interest in an amount equal to the accumulated and unpaid Distributions on, such Preferred Securities and the Common Securities, shall be distributed Pro Rata to the Holders of the Preferred Securities and the Common Securities in exchange for such Securities.

If, upon any such dissolution, the Liquidation Distribution can be paid only in part because the Trust has insufficient assets on hand legally available to pay in full the aggregate Liquidation Distribution, then the amounts payable directly by the Trust on the Preferred Securities and the Common Securities shall be paid, subject to the next paragraph, on a Pro Rata basis.

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Holders of Common Securities will be entitled to receive Liquidation Distributions upon any such dissolution Pro Rata with Holders of Preferred Securities, except that if an Event of Default has occurred and is continuing, the Preferred Securities shall have a priority over the Common Securities with respect to such Liquidation Distribution.

(b) The Holder of the Common Securities shall have the right to direct the Property Trustee in writing at any time to dissolve the Trust and to

distribute Debentures to Holders in exchange for Securities (which direction is optional and wholly within the discretion of the Holder of the Common Securities). Upon the receipt of any such written direction, the Property Trustee shall promptly (i) distribute Debentures in an aggregate principal amount equal to the aggregate stated liquidation amount of the Preferred Securities and the Common Securities held by each Holder, which Debentures bear accrued and unpaid interest in an amount equal to the accumulated and unpaid Distributions on the Preferred Securities and the Common Securities of such Holder, in exchange for the Preferred Securities and Common Securities of such Holder and (ii) dissolve the Trust.

(c) On the date fixed for any distribution of Debentures, upon dissolution of the Trust, (i) the Preferred Securities will no longer be deemed to be outstanding and may be canceled by the Regular Trustees, and (ii) Certificates representing Preferred Securities will be deemed to represent beneficial interests in the Debentures having an aggregate principal amount equal to the stated liquidation amount of, and bearing accrued and unpaid interest equal to accumulated and unpaid Distributions on, such Preferred Securities until such Certificates are presented to Pogo or its agent for transfer or reissuance.

(d) If Debentures are distributed to Holders of the Preferred Securities, Pogo, pursuant to the terms of the Indenture, will use its best efforts to have the Debentures listed on the New York Stock Exchange or on such other exchange as the Preferred Securities were listed immediately prior to the distribution of the Debentures.

4. Redemption or Special Event Exchange of Debentures. The Preferred Securities may be redeemed only if Debentures having an aggregate principal amount equal to the aggregate liquidation amount of the Preferred Securities and the Common Securities are repaid or redeemed as set forth below:

(a) Upon the repayment of the Debentures, in whole or in part, whether at maturity, upon redemption at any time or from time to time on or after June 1, 2002, the proceeds of such repayment will be promptly applied to redeem Pro Rata Preferred Securities and Common Securities having an aggregate liquidation amount equal to the aggregate principal amount of the Debentures so repaid or redeemed, upon not less than 30 nor more than 60 days' notice, at a cash redemption price per Preferred Security equal to the Optional Redemption Price (as such term is defined in the Supplemental Indenture) per \$50 principal amount of Debenture. The date of any such repayment or redemption of Preferred Securities and Common Securities shall be established to coincide with the repayment or redemption date of the Debentures.

(b) If fewer than all the outstanding Preferred Securities and Common Securities are to be so redeemed, the Preferred Securities and the Common Securities will be redeemed

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Pro Rata and the Preferred Securities will be redeemed as described in section 4(f)(ii) below. If a partial redemption would result in the delisting of the Preferred Securities by any national securities exchange or other organization on which the Preferred Securities are then listed or traded, Pogo pursuant to the Indenture will redeem Debentures only in whole and, as a result, the Trust may redeem the Preferred Securities only in whole.

(c) (i) If a Special Event shall occur and be continuing, the Regular Trustees shall give notice of such Special Event to the Property Trustee and shall direct the Conversion Agent to exchange all outstanding Preferred Securities for Debentures having a principal amount equal to the aggregate liquidation amount of the Preferred Securities to be exchanged and with accrued interest (including Additional Interest and Compounded Interest, if any) in an amount equal to any unpaid Distributions on the Preferred Securities; provided, however, that, in the case of a Tax Event, the Sponsor shall have the right to (i) direct that less than all, or none, as appropriate, of the Preferred Securities be so exchanged if and for so long as the Sponsor shall have elected to pay any Additional Interest (as defined in the Supplemental Indenture) such that the net amounts received by Holders of Preferred Securities not so exchanged in respect of Distributions and other distributions are not reduced as a result of such Tax Event, and shall not have revoked any such election or failed to make such payments or (ii) cause the Preferred Securities and the Common Securities to be redeemed in the manner set forth below. If a Tax Event shall occur or be continuing, the Sponsor shall have the right, within 90 days of the occurrence of such Tax Event upon not less than 30 nor more than 60 days' notice, to redeem the Debentures, in whole but not in part, for cash at the Tax Redemption Price (as defined in the Supplemental Indenture), plus accrued and unpaid interest thereon (including Additional Interest and Compounded Interest, if any). Promptly following such redemption, Preferred Securities and Common Securities with an aggregate liquidation amount equal to the aggregate principal amount of the Debentures so redeemed will be redeemed by the Trust at a cash redemption price per Preferred Security equal to the Tax Redemption Price per \$50 principal amount of Debentures, plus accrued and unpaid Distributions thereon to the redemption date on a pro rata basis. The Common Securities will be redeemed Pro Rata with the Preferred Securities, except that if an Event of Default has occurred and is continuing, the Preferred Securities will have a priority over the common Securities with respect to payment of the Tax Redemption Price.

(ii) Notice of any exchange pursuant to this Section 4(c) (an "Exchange Notice") of the Preferred Securities, which Exchange Notice shall be irrevocable, will be given by the Property Trustee by first-class mail to the Sponsor and to each record Holder of Preferred Securities and Common Securities to be exchanged not fewer than 30 nor more than 60 days prior to the date fixed for exchange thereof. For purposes of the calculation of the date of exchange and the dates on which notices are given pursuant to this paragraph (b), an Exchange Notice shall be deemed to be given on the day such notice is first mailed by first-class mail, postage prepaid, to each Holder. Each Exchange Notice shall be addressed to each Holder of Preferred Securities at the address of such Holder appearing in the books and records of the Trust. Each Exchange Notice shall state: (A) the exchange date; (B) the aggregate liquidation amount and any unpaid Distributions on the Trust Preferred Securities and Common Securities to be exchanged and the aggregate principal amount and any accrued interest on the Debentures to be exchanged therefor; (C) that on the exchange date the Preferred Securities to be so exchanged shall be exchanged for Debentures and that Distributions on the Preferred Securities so exchanged will cease to accumulate on and after said date; and (D) the identity of the Conversion Agent, if any, and the place or places where each Preferred Securities Certificate to be exchanged is to be surrendered

in exchange for Debentures. No defect in the Exchange Notice or in the mailing thereof with respect to any Preferred Security shall affect the validity of the exchange proceedings for any other Preferred Security.

(iii) In the event that fewer than all the outstanding Preferred Securities are to be exchanged, then, on the exchange date, (i) if all of the outstanding Preferred Securities are represented by Definitive Preferred Securities Certificates, the particular Preferred Securities to be exchanged will be selected by the Property Trustee from the outstanding Preferred Securities not previously called for redemption or exchange on a pro rata basis, (ii) if all of the outstanding Preferred Securities are represented by Global Certificates, the Property Trustee shall provide for the selection for exchange of a portion of the Global Certificate representing the Preferred Securities on a pro rata basis and (iii) if outstanding Preferred Securities are represented by both Global Certificates and Book-Entry Preferred Securities Certificates, the Property Trustee shall select the portion of the Global Certificate representing the Preferred Securities and the particular outstanding Preferred Securities represented by Definitive Preferred Securities Certificates to be exchanged on a pro rata basis. In the case of clause (ii) or (iii) above, the particular Preferred Securities to be exchanged shall be selected in accordance with the applicable rules and procedures for the Clearing Agency in whose name, or whose nominee's name, such Global Certificate is then held. Any Preferred Securities Certificate that is to be exchanged only in part shall be surrendered with due endorsement or by a written instrument of transfer fully executed by the Holder thereof (or its attorney duly authorized in writing) and the Trust shall prepare and deliver to such Holder, without service charge, a new Preferred Securities Certificate or Certificates in aggregate stated liquidation amount equal to, and in exchange for, the unredeemed portion of the Preferred Securities Certificate so surrendered. The Common Securities shall be exchanged in a similar manner.

(iv) In the event of an exchange pursuant to this Section 4(c), on the date fixed for any such exchange, (i) if the Preferred Securities are represented by Global Certificates, the Clearing Agency or its nominee, as the record Holder of such Preferred Securities, will exchange through the Conversion Agent the Global Certificate representing the Preferred Securities to be exchanged for a registered Global Certificate or certificates representing the Debentures to be delivered upon such exchange, (ii) if the Preferred Securities are represented by Definitive Preferred Securities Certificates, the certificates representing the Preferred Securities to be so exchanged will be deemed to represent Debentures having a principal amount equal to the aggregate stated Liquidation Preference of such Preferred Securities until such certificates are presented to the Conversion Agent for exchange for definitive certificates representing Debentures and (iii) all rights of the Holders of the Preferred Securities so exchanged will cease, except

for the right of such Holders to receive Debentures. The Common Securities shall be exchanged in a similar manner.

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(v) Each Holder, by becoming a party to the Declaration, will be deemed to have agreed to be bound by these exchange provisions in regard to the exchange of Preferred Securities for Debentures pursuant to the terms described above.

(vi) "Tax Event" means that the Sponsor and the Regular Trustees shall have received an opinion of counsel from independent nationally recognized tax counsel experienced in such matters to the effect that on or after May 26, 1999 as a result of (a) any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority thereof or therein, (b) any amendment to, or change in, an interpretation or application of any such laws or regulations by any legislative body, court, governmental agency or regulatory authority (including the enactment of any legislation or the publication of any judicial decision or regulatory determination), (c) any interpretation or pronouncement by any legislative body, court, governmental agency or regulatory authority that provides for a position with respect to such laws or regulations that differs from its previous position or a theretofore commonly accepted position or (d) any action taken by any governmental agency or regulatory authority, which amendment or change is enacted, promulgated, issued or announced or which interpretation or pronouncement is issued or announced or which action is taken, in each case on or after May 26, 1999, there is more than a remote risk that (i) the Trust is, or will be within 90 days of the date thereof, subject to United States federal income tax with respect to income accrued or received on the Debentures, (ii) the Trust is, or will be within 90 days of the date thereof, subject to more than a de minimis amount of taxes, duties or other governmental charges or (iii) interest payable by Pogo to the Trust on the Debentures is not, or within 90 days of the date thereof will not be, deductible by Pogo for United States Federal income tax purposes.

(vii) "Investment Company Event" means that the Sponsor received an opinion of counsel from independent nationally recognized counsel experienced in practice under the Investment Company Act that, as a result of the occurrence of a change in law or regulation or a change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority (a "Change in Investment Company Act Law"), there is more than an insubstantial risk that the Trust is or will be considered an Investment Company which is required to be registered under the Investment Company Act, which Change in Investment Company Act Law becomes effective on or after May 26, 1999.

(d) The Trust may not redeem fewer than all the outstanding Preferred Securities unless all accumulated and unpaid Distributions have been paid on all Preferred Securities for all quarterly Distribution periods terminating on or prior to the date of redemption.



(e) [Intentionally omitted.]

(f) (i) Notice of any redemption of, or notice of distribution of Debentures in exchange for, the Preferred Securities and the Common Securities (a "Redemption/Distribution Notice") will be given by the Regular Trustees on behalf of the Trust by mail to each Holder of Preferred Securities and Common Securities to be redeemed

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or exchanged not less than 30 nor more than 60 days prior to the date fixed for redemption or exchange thereof. For purposes of the calculation of the date of redemption or exchange and the dates on which notices are given pursuant to this section 4(f)(i), a Redemption/Distribution Notice shall be deemed to be given on the day such notice is first mailed by first-class mail, postage prepaid, to Holders of Preferred Securities and Common Securities. Each Redemption/Distribution Notice shall be addressed to the Holders of Preferred Securities and Common Securities at the address of each such Holder appearing in the books and records of the Trust. No defect in the Redemption/Distribution Notice or in the mailing of either thereof with respect to any Holder shall affect the validity of the redemption or exchange proceedings with respect to any other Holder.

(ii) In the event that fewer than all the outstanding Preferred Securities are to be redeemed, the Preferred Securities to be redeemed will be redeemed Pro Rata from each Holder of Preferred Securities, it being understood that, in respect of Preferred Securities registered in the name of and held of record by DTC (or successor Clearing Agency) or any other nominee, the Preferred Securities will be redeemed from, and the distribution of the proceeds of such redemption will be made to, DTC (or successor Clearing Agency).

(iii) Subject to section 9 hereof, if the Trust gives a Redemption/Distribution Notice in respect of a redemption of Preferred Securities as provided in this section 4 (which notice will be irrevocable) then (A) while the Preferred Securities are in book-entry only form, with respect to the Preferred Securities, by 12:00 noon, New York City time, on the redemption date, provided that Pogo has paid the Property Trustee, in immediately available funds, a sufficient amount of cash in connection with the related redemption or maturity of the Debentures, the Property Trustee will deposit irrevocably with DTC (or successor Clearing Agency) funds sufficient to pay the applicable Redemption Price with respect to the Preferred Securities and will give DTC (or successor Clearing Agency) irrevocable instructions and authority to pay the Redemption Price to the Holders of the Preferred Securities and (B) if the Preferred Securities are issued in definitive form, with respect to the Preferred Securities and provided that Pogo has paid the Property Trustee, in immediately available funds, a sufficient amount of cash in connection with the related redemption or maturity of the Debentures, the Property Trustee will pay the relevant Redemption Price to the Holders of such Preferred Securities by check mailed to the address of the relevant Holder appearing on the books and records of the Trust on the redemption date. If a Redemption/Distribution Notice shall have been given and funds deposited as required, if applicable, then



immediately prior to the close of business on the redemption date, Distributions will cease to accumulate on the Preferred Securities called for redemption, such Preferred Securities will no longer be deemed to be outstanding and all rights of Holders of such Preferred Securities so called for redemption will cease, except the right of the Holders of such Preferred Securities to receive the Redemption Price, but without interest on such Redemption Price. Neither the Trustees nor the Trust shall be required to register or cause to be registered the transfer of any Preferred Securities which have been so called for

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redemption. If any date fixed for redemption of Preferred Securities is not a Business Day, then payment of the Redemption Price payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day falls in the next calendar year, such payment will be made on the immediately preceding Business Day, in each case with the same force and effect as if made on such date fixed for redemption. If payment of the Redemption Price in respect of Preferred Securities is improperly withheld or refused and not paid either by the Property Trustee or by Pogo pursuant to the Preferred Securities Guarantee, Distributions on such Preferred Securities will continue to accumulate, from the original redemption date to the date of payment, in which case the actual payment date will be considered the date fixed for redemption for purposes of calculating the Redemption Price.

(iv) Redemption/Distribution Notices shall be sent by the Regular Trustees on behalf of the Trust to DTC or its nominee (or any successor Clearing Agency or its nominee) if the Global Certificates have been issued or, if Definitive Preferred Security Certificates have been issued, to the Holders of the Preferred Securities.

(v) Subject to the foregoing and applicable law (including, without limitation, United States Federal securities laws), Pogo or any of its Affiliates may at any time and from time to time purchase outstanding Preferred Securities by tender, in the open market or by private agreement.

5. Conversion Rights. The Holders of Preferred Securities shall have the right at any time prior to the close of business on May 31, 2029 or, in the case of Preferred Securities called for redemption, prior to the close of business on the Business Day prior to the redemption date, at their option, to cause the Conversion Agent to convert Preferred Securities, on behalf of the converting Holders, into shares of Common Stock in the manner described herein on and subject to the following terms and conditions:

(a) The Preferred Securities will be convertible at the office of the Conversion Agent maintained for such purpose in the Borough of Manhattan, The City of New York, into fully paid and nonassessable shares of Common Stock pursuant to the Holder's direction to the Conversion Agent to exchange such Preferred Securities for a portion of the Debentures theretofore held by the Trust on the basis of one Preferred Security per \$50 principal amount of Debentures, and immediately convert such amount of Debentures into fully paid and

nonassessable shares of Common Stock at an initial rate of 2.1053 shares of Common Stock per \$50 principal amount of Debentures (which is equivalent to a conversion price of \$23.75 per share of Common Stock, subject to certain adjustments set forth in Sections 5.03 and 5.04 of the Supplemental Indenture (as so adjusted, "Conversion Price")).

(b) In order to convert Preferred Securities into Common Stock, the Holder shall submit to the Conversion Agent at the office referred to above an irrevocable request to convert Preferred Securities on behalf of such Holder (the "Conversion Request"), together, if the Preferred Securities are in certificated form, with such Preferred Security Certificates.

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The Conversion Request shall (i) set forth the number of Preferred Securities to be converted and the name or names, if other than the Holder, in which the shares of Common Stock should be issued and (ii) direct the Conversion Agent (a) to exchange such Preferred Securities for a portion of the Debentures held by the Trust (at the rate of exchange specified in the preceding paragraph) and (b) to immediately convert such Debentures on behalf of such Holder into Common Stock, subject to certain adjustments set forth in the Supplemental Indenture (at the conversion rate specified in the preceding paragraph). The Conversion Agent shall notify the Trust of the Holder's election to exchange Preferred Securities for a portion of the Debentures held by the Trust and the Trust shall, upon receipt of such notice, deliver to the Conversion Agent the appropriate principal amount of Debentures for exchange in accordance with this Section. The Conversion Agent shall thereupon notify the Sponsor of the Holder's election to convert such Debentures into shares of Common Stock. If a Preferred Security is surrendered for conversion after the close of business on any regular record date for payment of a Distribution and before the opening of business on the corresponding Distribution payment date, then, notwithstanding such conversion, the Distribution payable on such Distribution payment date will be paid in cash to the person in whose name the Preferred Security is registered at the close of business on such record date. Except as provided above, neither the Trust nor the Sponsor will make, or be required to make, any payment, allowance or adjustment upon any conversion on account of any accumulated and unpaid Distributions accumulated on the Preferred Securities surrendered for conversion, or on account of any accumulated and unpaid dividends on the shares of Common Stock issued upon such conversion, and the delivery of Common Stock upon conversion of the Preferred Securities shall be deemed to constitute full payment for all accumulated and unpaid Distributions on the Preferred Securities. Preferred Securities shall be deemed to have been converted immediately prior to the close of business on the day on which a Conversion Request relating to such Preferred Securities is received by the Trust in accordance with the foregoing provision (the "Conversion Date"). The Person or Persons entitled to receive Common Stock issuable upon conversion of the Debentures shall be treated for all purposes as the record holder or holders of such Common Stock at such time. As promptly as practicable on or after the Conversion Date, the Sponsor shall issue and deliver at the office of the Conversion Agent a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion, together with the cash payment, if any, in lieu of any fraction of any share to the Person or Persons entitled to receive the same calculated in the manner set forth in Section 5.02(e) of the Supplemental Indenture, unless otherwise directed by the Holder in the Conversion Request, and the Conversion Agent shall distribute such certificate or certificates, together with

the applicable cash payment, if any, to such Person or Persons.

(c) Each Holder of a Preferred Security by his acceptance thereof appoints Wilmington Trust Company as the "Conversion Agent" for the purpose of effecting the conversion of Preferred Securities in accordance with this Section. In effecting the conversion and transactions described in this Section, the Conversion Agent shall be acting as agent of the Holders of Preferred Securities directing it to effect such conversion transactions. The Conversion Agent is hereby authorized (i) to exchange Preferred Securities from time to time for Debentures held by the Trust in connection with the conversion of such

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Preferred Securities in accordance with this Section and (ii) to convert all or a portion of the Debentures into Common Stock and thereupon to deliver such shares of Common Stock in accordance with the provisions of this Section and to deliver to the Trust a new Debenture or Debentures for any resulting unconverted principal amount.

(d) No fractional shares of Common Stock will be issued as a result of conversion, but in lieu thereof, such fractional interest will be paid by the Sponsor in cash (based upon the Closing Price (as defined in the Supplemental Indenture) of Common Stock on the Conversion Date, which in turn will make such payment to the Holder or Holders of Preferred Securities so converted, or, if such day is not a day on which any securities are traded on the national securities exchange or quotation system used to determine the Closing Price, on the next such trading day.

(e) The Sponsor shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of the Debentures free from any preemptive or other similar rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the Debentures then outstanding. Notwithstanding the foregoing, the Sponsor shall be entitled to deliver upon conversion of Debentures, shares of Common Stock reacquired and held in the treasury of the Sponsor (in lieu of the issuance of authorized and unissued shares of Common Stock), so long as any such treasury shares are free and clear of all liens, charges, security interests or encumbrances. Any shares of Common Stock issued upon conversion of the Debentures shall be duly authorized, validly issued and fully paid and nonassessable. The Conversion Agent shall deliver the shares of Common Stock received upon conversion of the Debentures to the converting Holder of Preferred Securities free and clear of all liens, charges, security interests and encumbrances, except for United States withholding taxes. Whenever the Company issues shares of Common Stock upon conversion of Debentures and the Company has in effect at such time a share purchase rights agreement under which holders of Common Stock are issued rights ("Rights") entitling the holders under certain circumstances to purchase an additional share or shares of Common Stock or other capital stock of the Company, the Company will issue, together with each such share of Common Stock, such number of Rights (which number may be a fraction) as shall at that time be issuable with a share of Common Stock pursuant to such share purchase rights agreement. Each of the Sponsor and the Trust shall prepare and shall use its best efforts to obtain and keep in force such governmental or regulatory permits or other authorizations as may be required by law, and shall comply with all applicable requirements as to registration or qualification of Common Stock (and all requirements to list Common

Stock issuable upon conversion of Debentures that are at the time applicable), in order to enable the Sponsor to lawfully issue Common Stock to the Trust upon conversion of the Debentures and the Trust to lawfully deliver Common Stock to each Holder of Preferred Securities upon conversion of the Preferred Securities.

(f) The Sponsor will pay any and all taxes that may be payable in respect of the issue or delivery of shares of Common Stock excluding United States withholding taxes on conversion of Debentures and the delivery of the shares of Common Stock by the Trust upon conversion of the Preferred Securities. The Sponsor shall not, however, be required to pay

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any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the Preferred Securities so converted were registered, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Conversion Agent the amount of any such tax, or has established to the satisfaction of the Trust that such tax has been paid.

(g) Nothing in the preceding paragraph (f) shall limit the requirement of the Trust to withhold taxes pursuant to the terms of the Preferred Securities or set forth in this Exhibit B to the Declaration or to the Declaration itself or otherwise require the Property Trustee or the Trust to pay any amounts on account of such withholdings.

6. Voting Rights. (a) Except as provided under paragraph 6(b) below and as otherwise required by law and the Declaration, the Holders of the Preferred Securities will have no voting rights.

(b) If any proposed amendment to the Declaration provides for, or the Regular Trustees otherwise propose to effect, (i) any action that would adversely affect the powers, preferences or special rights of the Securities, whether by way of amendment to the Declaration, other than as described in Section 12.01(b) of the Declaration or otherwise, or (ii) the dissolution, winding-up or termination of the Trust, other than as described in Section 8.01 of the Declaration or section 3 of Exhibit B, then the Holders of outstanding Securities will be entitled to vote on such amendment or proposal as a single class and such amendment or proposal shall not be effective except with the approval of the Holders of Securities of at least a Majority in liquidation amount of the Securities, voting together as a single class; provided, however, that (A) if any amendment or proposal referred to in clause (i) above would adversely affect only the Preferred Securities or the Common Securities, then only the affected class of Securities will be entitled to vote on such amendment or proposal and such amendment or proposal shall not be effective except with the approval of at least a Majority in liquidation amount of such class of Securities, (B) the rights of Holders of Common Securities under Section 5.02 of the Declaration to increase or decrease the number of, and to appoint, replace or remove, Trustees shall not be amended without the consent of each Holder of Common Securities, and (C) amendments to the Declaration shall be subject to such further requirements as are set forth in Sections 12.01 and 12.02 of the Declaration.

In the event the consent of the Property Trustee, as the holder of the Debentures, is required under the Indenture with respect to any amendment,

modification or termination of the Indenture or the Debentures, the Property Trustee shall request the written direction of the Holders of the Securities with respect to such amendment, modification or termination. The Property Trustee shall vote with respect to such amendment, modification or termination as directed by a Majority in liquidation amount of the Securities voting together as a single class; provided, however, that where such amendment, modification or termination of the Indenture requires the consent or vote of (1) holders of Debentures representing a specified percentage greater than a majority in principal amount of the Debentures or (2) each holder of Debentures, the Property Trustee may only vote with respect to that amendment, modification or termination as directed by, in the case of clause (1) above, the vote of Holders of Securities representing such specified percentage of the aggregate liquidation amount of the Securities, or, in the case of clause (2) above, each Holder of Securities; and provided, further, that the Property Trustee shall be under no obligation to take any action in accordance with

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the directions of the Holders of Securities unless the Property Trustee shall have received, at the expense of the Sponsor, an Opinion of Counsel experienced in such matters to the effect that the Trust will not be classified for United States Federal income tax purposes as other than a grantor trust on account of such action.

So long as any Debentures are held by the Property Trustee, the Trustees shall not (i) direct the time, method and place of conducting any proceeding for any remedy available to the Trustee of the Indenture (the "Debenture Trustee"), or exercising any trust or power conferred on the Debenture Trustee with respect to the Debentures, (ii) waive any past default that is waivable under Section 6.06 of the Indenture or (iii) exercise any right to rescind or annul a declaration of acceleration of the maturity of the principal of the Debentures, without, in each case, obtaining the prior approval of the Holders of a Majority in liquidation amount of all outstanding Preferred Securities and Common Securities. The Trustees shall not revoke any action previously authorized or approved by a vote of the Holders of the Preferred Securities except by subsequent vote of such Holders. The Property Trustee shall notify each Holder of Preferred Securities of any notice of default with respect to the Debentures.

If an Event of Default has occurred and is continuing, then the Holders of a Majority in liquidation amount of the Preferred Securities will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Property Trustee or to direct the exercise of any trust or power conferred upon the Property Trustee under the Declaration, including the right to direct the Property Trustee to exercise the remedies available to it as a holder of the Debentures. If the Property Trustee fails to enforce its rights under the Debentures, a Holder of Preferred Securities, to the extent permitted by applicable law, may, after a period of 30 days has elapsed since such Holder's written request to the Property Trustee to enforce such rights, institute a legal proceeding directly against the Sponsor to enforce the Property Trustee's rights under the Debentures without first instituting any legal proceeding against the Property Trustee or any other Person; provided further, that, if an Event of Default has occurred and is continuing and such event is attributed to the failure of the Sponsor to pay interest or principal on the Debentures on the date such interest or principal is otherwise payable (or in the case of redemption, on the redemption date), then a Holder of Preferred Securities may directly institute a proceeding for enforcement of payment to such Holder of the principal of or interest on the Debentures having a principal amount equal to the aggregate liquidation amount of the Preferred Securities of such Holder (a "Holder Direct Action") on or after the respective due date specified in the Debentures. In connection with such Holder Direct Action, the Sponsor will be subrogated to the rights of such Holder of Preferred

Securities to the extent of any payment made by the Sponsor to such Holders of Preferred Securities in such Holder Direct Action. Except as provided in the preceding sentences, the Holders of Preferred Securities will not be able to exercise directly any other remedy available to the Holders of the Debentures.

A waiver of an Indenture Event of Default by the Property Trustee at the direction of the Holders of the Preferred Securities will constitute a waiver of the corresponding Event of Default under the Declaration in respect of the Securities.

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Any required approval or direction of Holders of Preferred Securities may be given at a separate meeting of Holders of Preferred Securities convened for such purpose, at a meeting of all of the Holders of Securities or pursuant to written consent. The Regular Trustees will cause a notice of any meeting at which Holders of Preferred Securities are entitled to vote to be mailed to each Holder of record of Preferred Securities. Each such notice will include a statement setting forth (i) the date of such meeting, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote and (iii) instructions for the delivery of proxies.

No vote or consent of the Holders of Preferred Securities will be required for the Trust to redeem and cancel Preferred Securities or to distribute the Debentures in accordance with the Declaration.

Notwithstanding that Holders of Preferred Securities are entitled to vote or consent under any of the circumstances described above, any of the Preferred Securities at such time that are owned by Pogo or by any Affiliate of Pogo shall not be entitled to vote or consent and shall, for purposes of such vote or consent, be treated as if they were not outstanding.

Holders of the Preferred Securities have no rights to increase or decrease the number of Trustees or to appoint, remove or replace a Trustee, which voting rights are vested exclusively in the Holders of the Common Securities.

7. Pro Rata Treatment. A reference in these terms of the Preferred Securities to any payment, Distribution or treatment as being "Pro Rata" shall mean pro rata to each Holder of Securities according to the aggregate liquidation amount of the Securities held by the relevant Holder in relation to the aggregate liquidation amount of all Securities outstanding unless, in relation to a payment, an Event of Default has occurred and is continuing, in which case any funds available to make such payment shall be paid first to each Holder of the Preferred Securities pro rata according to the aggregate liquidation amount of Preferred Securities held by the relevant Holder relative to the aggregate liquidation amount of all Preferred Securities outstanding, and only after satisfaction of all amounts owed to the Holders of the Preferred Securities, to each Holder of Common Securities pro rata according to the aggregate liquidation amount of Common Securities held by the relevant Holder relative to the aggregate liquidation amount of all Common Securities outstanding.

8. Ranking. The Preferred Securities rank pari passu and payment thereon will be made Pro Rata with the Common Securities, except that when an Event of Default occurs and is continuing, the rights of Holders of Preferred Securities to payment in respect of Distributions and payments upon liquidation, redemption or otherwise rank in priority to the rights of Holders of the Common Securities.

9. Transfer, Exchange, Method of Payments. Payment of Distributions and payments on redemption of the Preferred Securities will be payable, the transfer



of the Preferred Securities will be registrable, and Preferred Securities will be exchangeable for Preferred Securities of other denominations of a like aggregate liquidation amount, at the corporate trust office of the Property Trustee in The City of New York; provided that payment of Distributions may be made at the option of the Regular Trustees on behalf of the Trust by check mailed to the address of the persons entitled

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thereto and that the payment on redemption of any Preferred Security will be made only upon surrender of such Preferred Security to the Property Trustee.

10. Acceptance of Indenture and Preferred Securities Guarantee. Each Holder of Preferred Securities, by the acceptance thereof, agrees to the provisions of (i) the Preferred Securities Guarantee, including the subordination provisions therein, and (ii) the Indenture and the Debentures, including the subordination provisions of the Indenture.

11. No Preemptive Rights. The Holders of Preferred Securities shall have no preemptive or similar rights to subscribe to any additional Preferred Securities or Common Securities.

12. Miscellaneous. These terms shall constitute a part of the Declaration. The Trust will provide a copy of the Declaration and the Indenture to a Holder of Preferred Securities without charge on written request to the Trust at its principal place of business.

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Annex I

FORM OF PREFERRED SECURITY CERTIFICATE

[IF THE PREFERRED SECURITY IS TO BE A GLOBAL CERTIFICATE INSERT This Preferred Security is a Global Certificate within the meaning of the Declaration hereinafter referred to and is registered in the name of The Depository Trust Company ("DTC") or a nominee of DTC. This Preferred Security is exchangeable for Preferred Securities registered in the name of a person other than DTC or its nominee only in the limited circumstances described in the Declaration and no transfer of this Preferred Security (other than a transfer of this Preferred Security as a whole by DTC to a nominee of DTC or by a nominee of DTC to DTC or another nominee of DTC) may be registered except in limited circumstances.

Unless this Preferred Security is presented by an authorized representative of The Depository Trust Company (55 Water Street, New York, New York) to Pogo Trust I or its agent for registration of transfer, exchange or payment, and any Preferred Security issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment hereon is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY A PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.]

Certificate Number  
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Number of Preferred Securities: \_\_\_\_\_

Aggregate Liquidation Amount: \$ \_\_\_\_\_

CUSIP NO. 73044P208

Certificate Evidencing Preferred Securities



of

Pogo Trust I

6 1/2% Cumulative Quarterly Income Convertible Preferred Securities, Series A  
(liquidation amount \$50 per Preferred Security)

Pogo Trust I, a statutory business trust created under the laws of the State of Delaware (the "Trust"), hereby certifies that \_\_\_\_\_ (the "Holder") is the registered owner of \_\_\_\_\_ (\_\_\_\_\_) preferred securities of the Trust representing preferred undivided beneficial interests in the assets of

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the Trust and designated the 6 1/2% Cumulative Quarterly Income Convertible Preferred Securities, Series A (liquidation amount \$50 per Preferred Security) (the "Preferred Securities"). The Preferred Securities are transferable on the books and records of the Trust, in person or by a duly authorized attorney, upon surrender of this Certificate duly endorsed and in proper form for transfer. The designations, rights, privileges, restrictions, preferences and other terms and provisions of the Preferred Securities are set forth in, and this Certificate and the Preferred Securities represented hereby are issued and shall in all respects be subject to the terms and provisions of, the Amended and Restated Declaration of Trust of the Trust dated as of June 2, 1999, as the same may be amended from time to time (the "Declaration") including the designation of the terms of Preferred Securities as set forth in Exhibit B thereto. The Preferred Securities and the Common Securities issued by the Trust pursuant to the Declaration represent undivided beneficial interests in the assets of the Trust, including the Debentures (as defined in the Declaration) issued by Pogo Producing Company, a Delaware corporation ("Pogo"), to the Trust pursuant to the Indenture referred to in the Declaration. The Holder is entitled to the benefits of the Guarantee Agreement of Pogo dated as of June 2, 1999 (the "Guarantee") to the extent provided therein. The Trust will furnish a copy of the Declaration, the Guarantee and the Indenture to the Holder without charge upon written request to the Trust at its principal place of business or registered office.

The Holder of this Certificate, by accepting this Certificate, is deemed to have (i) agreed to the terms of the Indenture and the Debentures, including that the Debentures are subordinate and junior in right of payment to all Senior Debt (as defined in the Indenture or Supplemental Indenture thereto) as and to the extent provided in the Indenture or Supplemental Indenture thereto, and (ii) agreed to the terms of the Guarantee, including that the Guarantee is subordinate and junior in right of payment to all other liabilities of Pogo, including the Debentures, except those made pari passu or subordinate by their terms, and senior to all capital stock (other than the most senior preferred stock issued, from time to time, if any, by Pogo, which preferred stock will rank pari passu with the Guarantee) now or hereafter issued by Pogo and to any guarantee now or hereafter entered into by Pogo in respect of any of its capital stock (other than the most senior preferred stock issued, from time to time, if any, by Pogo).

Upon receipt of this Certificate, the Holder is bound by the Declaration and is entitled to the benefits thereunder.

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IN WITNESS WHEREOF, Trustees of the Trust have executed this Certificate.

POGO TRUST I

By: \_\_\_\_\_, as Regular Trustee  
Name: John W. Elsenshans  
Title: Regular Trustee

By: \_\_\_\_\_, as Regular Trustee  
Name: Gerald A. Morton  
Title: Regular Trustee

Dated:

Countersigned and Registered:

Transfer Agent and Registrar

By: \_\_\_\_\_  
Authorized Signatory

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[FORM OF REVERSE OF SECURITY]

Distributions payable on each Preferred Security will be fixed at a rate per annum of 6 1/2% (the "Coupon Rate") of the stated liquidation amount of \$50 per Preferred Security, such rate being the rate of interest payable on the Debentures to be held by the Property Trustee. Distributions in arrears for more than one quarter will accumulate additional distributions thereon at the Coupon Rate per annum (to the extent permitted by applicable law), compounded quarterly. The term "Distributions" as used herein means such periodic cash distributions and any such additional distributions payable unless otherwise stated. A Distribution is payable only to the extent that payments are made in respect of the Debentures held by the Property Trustee and to the extent the Trust has funds on hand legally available therefor. The amount of Distributions payable for any period will be computed for any full quarterly Distribution period on the basis of a 360-day year of twelve 30-day months, and for any period shorter than a full quarterly Distribution period for which Distributions are computed, Distributions will be computed on the basis of the actual number of days elapsed per 90-day quarter.

Distributions on the Preferred Securities will accumulate from June 2, 1999, and will be payable quarterly in arrears, on March 1, June 1, September 1 and December 1 of each year, commencing on September 1, 1999, but only if and to the extent that interest payments are made in respect of the Debentures held by the Property Trustee. So long as Pogo shall not be in default in the payment of interest on the Debentures, Pogo has the right under the Indenture for the Debentures to defer payments of interest on the Debentures by extending the interest payment period at any time and from time to time on the Debentures for a period not exceeding 20 consecutive quarterly interest periods (each an "Extension Period"), during which Extension Period no interest shall be due and payable on the Debentures. As a consequence of such deferral, Distributions shall also be deferred. Despite such deferral, Distributions will continue to accumulate with additional distributions thereon (to the extent permitted by applicable law but not at a rate greater than the rate at which interest is then accruing on the Debentures) at the Coupon Rate compounded quarterly during any such Extension Period; provided that no Extension Period shall extend beyond the stated maturity of the Debentures. Prior to the termination of any such Extension Period, Pogo may further extend such Extension Period; provided that such Extension Period together with all such previous and further extensions

thereof may not exceed 20 consecutive quarterly interest periods. Upon the termination of any Extension Period and the payment of all amounts then due, Pogo may commence a new Extension Period, subject to the above requirements. On the Distribution payment date at the end of the Extension Period, payments of accumulated Distributions will be payable to Holders of Preferred Securities as they appear on the books and records of the Trust (regardless of who the Holders may have been on other dates during the Extension Period) on the record date for such Distribution payment date.

The Preferred Securities shall be redeemable or subject to mandatory exchange upon the occurrence of a Special Event as provided in the Declaration.

The Preferred Securities shall be convertible into shares of Common Stock (as defined in the Declaration), through (i) the exchange of Preferred Securities for a portion of the Debentures and (ii) the immediate conversion of such Debentures into Common Stock, in the manner and according to

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the terms set forth in the Declaration upon submission of a Conversion Request (as defined in the Declaration) to the Conversion Agent (as defined in the Declaration). A form of Conversion Request is provided at the end of this Preferred Securities Certificate.

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#### CONVERSION REQUEST

To: Wilmington Trust Company, as Property Trustee of Pogo Trust I

The undersigned owner of these Preferred Securities hereby irrevocably exercises the option to convert these Preferred Securities, or the portion below designated, into Common Stock (as that term is defined in the Amended and Restated Declaration of Trust, dated as of June 2, 1999 (as amended from time to time, the "Declaration"), by John O. McCoy, Jr., John W. Elsenhans and Gerald A. Morton as Regular Trustees, Wilmington Trust Company, as the Delaware Trustee, Wilmington Trust Company, as the Property Trustee, Pogo Producing Company, as Sponsor, and by the Holders, from time to time, of undivided beneficial interests in the assets of the Trust to be issued pursuant to the Declaration) in accordance with and subject to the terms and conditions of the Declaration. Pursuant to the aforementioned exercise of the option to convert these Preferred Securities, the undersigned hereby directs the Conversion Agent (as that term is defined in the Declaration) to (i) exchange such Preferred Securities for a portion of the Debentures (as that term is defined in the Declaration) held by Pogo Trust I (at the rate of exchange specified in the terms of the Preferred Securities set forth as Exhibit B to the Declaration) and (ii) immediately convert such Debentures on behalf of the undersigned into Common Stock (at the conversion rate specified in the terms of the Preferred Securities set forth as Exhibit B to the Declaration, subject to certain adjustments set forth in the Supplemental Indenture (as that term is defined in the Declaration)).

The undersigned does also hereby direct the Conversion Agent that the shares of Common Stock issuable and deliverable upon conversion, together with any check in payment for fractional shares, be issued in the name of and delivered to the undersigned, unless a different name has been indicated in the assignment below. If shares of Common Stock are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Date: \_\_\_\_\_, \_\_\_\_\_

in whole \_\_\_\_ in part \_\_\_\_

Number of Preferred Securities to be converted:  
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If a name or names other than the undersigned,  
please indicate in the spaces below the name or  
names in which the shares of Common Stock are  
to be issued, along with the address or  
addresses of such person or persons:

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Signature (for conversion only)

Please Print or Type Name and Address, Including Zip Code, and  
Social Security or Other Identifying Number

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Signature Guarantee: (2) \_\_\_\_\_

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\*\* (Signature must be guaranteed by an institution which is a member of one or  
the following recognized Signature Guaranty Programs: (i) The Securities  
Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange  
Medallion Program (MSP); (iii) The Stock Exchange Medallion Program (SEMP); or  
(iv) in such other guarantee programs acceptable to the Trustee.)

ASSIGNMENT

FOR VALUE RECEIVED,  
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(INSERT ASSIGNEE'S SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER)  
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-----  
(INSERT ADDRESS AND ZIP CODE OF ASSIGNEE)  
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AND IRREVOCABLY APPOINTS  
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-----  
AGENT TO TRANSFER THIS PREFERRED SECURITY CERTIFICATE ON THE BOOKS OF THE TRUST. SUBSTITUTE ANOTHER TO ACT FOR HIM OR HER.

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NOTICE: THE FACE OF THIS PREFERRED SECURITY CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

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EXHIBIT C

TERMS OF  
COMMON SECURITIES

Pursuant to Section 7.01(b) of the Amended and Restated Declaration of Trust of Pogo Trust I dated as of June 2, 1999 (as amended from time to time, the "Declaration"), the designations, rights, privileges, restrictions, preferences and other terms and provisions of the Common Securities are set forth below (each capitalized term used but not defined herein having the meaning set forth in the Declaration):

1. Designation and Number. Ninety-two thousand eight hundred (92,800) Common Securities of the Trust with an aggregate liquidation amount at any time outstanding with respect to the assets of the Trust of Four Million Six Hundred Forty Thousand Dollars (\$4,640,000), and each with a liquidation amount with respect to the assets of the Trust of \$50 per Common Security, are hereby designated as "6 1/2% Cumulative Quarterly Income Convertible Common Securities, Series A". The Common Security Certificates evidencing the Common Securities shall be substantially in the form attached hereto as Annex I, with such changes and additions thereto or deletions therefrom as may be required by ordinary usage, custom or practice. In connection with the issuance and sale of the Preferred Securities and the Common Securities, the Trust will purchase as trust assets Debentures of Pogo having an aggregate principal amount equal to the aggregate liquidation amount of the Preferred Securities and the Common Securities so issued, and bearing interest at an annual rate equal to the annual Distribution rate on the Preferred Securities and the Common Securities and having payment and redemption provisions which correspond to the payment and redemption provisions of the Preferred Securities and the Common Securities.

2. Distributions. (a) Distributions payable on each Common Security will be fixed at a rate per annum of 6 1/2% (the "Coupon Rate") of the stated liquidation amount of \$50 per Common Security, such rate being the rate of interest payable on the Debentures to be held by the Property Trustee. Distributions in arrears for more than one calendar quarter will accumulate additional distributions thereon at the Coupon Rate per annum (to the extent permitted by applicable law), compounded quarterly. The term "Distributions" as used herein means such periodic cash distributions and any such additional distributions payable unless otherwise stated. A Distribution will be made by the Property Trustee only to the extent that interest payments are made in respect of the Debentures held by the Property Trustee and to the extent the Trust has funds on hand legally available therefor. The amount of Distributions payable for any period will be computed for any full quarterly Distribution period on the basis of a 360-day year of twelve 30-day months, and for any period shorter than a full quarterly Distribution period for which Distributions are computed, Distributions will be computed on the basis of the actual number of days elapsed per 90-day quarter.

(b) Distributions on the Common Securities will accumulate from June 2, 1999 and will be payable quarterly in arrears, on March 1, June 1, September 1 and December 1 of each year commencing on September 1, 1999, except as otherwise described below, but only if and to the extent that interest payments are made in respect of the Debentures held by the

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Property Trustee. So long as Pogo shall not be in default in the payment of interest on the Debentures, Pogo has the right under the Indenture for the Debentures to defer payments of interest on the Debentures by extending the interest payment period at any time and from time to time on the Debentures for a period not exceeding 20 consecutive quarterly interest periods (each, an "Extension Period"), during which Extension Period no interest shall be due and payable on the Debentures. As a consequence of such deferral, Distributions shall also be deferred. Despite such deferral, Distributions will continue to accumulate with additional distributions thereon (to the extent permitted by applicable law but not at a rate greater than the rate at which interest is then accruing on the Debentures) at the Coupon Rate compounded quarterly during any such Extension Period; provided that no Extension Period shall extend beyond the stated maturity of the Debentures or the date on which Debentures are redeemed. Prior to the termination of any such Extension Period, Pogo may further extend such Extension Period; provided that such Extension Period together with all such previous and further extensions thereof may not exceed 20 consecutive quarterly interest periods. Upon the termination of any Extension Period and the payment of all amounts then due, Pogo may commence a new Extension Period, subject to the above requirements. On the Distribution payment date at the end of the Extension Period, payments of accumulated Distributions will be payable to Holders of Common Securities as they appear on the books and records of the Trust (regardless of who the Holders may have been on other dates during the Extension Period) on the record date for such Distribution payment date.

(c) Distributions on the Common Securities will be payable promptly by the Property Trustee (or other Paying Agent) upon receipt of immediately available funds to the Holders thereof as they appear on the books and records of the Trust on the relevant record dates. While the Preferred Securities remain in book-entry only form, the relevant record dates for the Common Securities shall be one business day prior to the relevant Distribution date, and if the Preferred Securities are no longer in book-entry only form, the relevant record dates for the Common

Securities will be the fifteenth (15th) day of the month prior to the relevant Distribution date, which record and payment dates correspond to the record and interest payment dates on the Debentures. Distributions payable on any Common Securities that are not punctually paid on any Distribution payment date as a result of Pogo's having failed to make the corresponding interest payment on the Debentures will forthwith cease to be payable to the person in whose name such Common Security is registered on the relevant record date, and such defaulted Distribution will instead be payable to the person in whose name such Common Security is registered on the special record date established by the Regular Trustees, which record date shall correspond to the special record date or other specified date determined in accordance with the Indenture; provided, however, that Distributions shall not be considered payable on any Distribution payment date falling within an Extension Period unless Pogo has elected to make a full or partial payment of interest accrued on the Debentures on such Distribution payment date. Subject to any applicable laws and regulations and the provisions of the Declaration, each payment in respect of the Common Securities will be made as described in section 9 hereof. If any date on which Distributions are payable on the Common Securities is not a Business Day, then payment of the Distribution payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day is in the next succeeding calendar year, such payment shall be

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made on the immediately preceding Business Day, in each case with the same force and effect as if made on the date such payment was originally payable. Notwithstanding anything herein to the contrary, the record dates and payment dates for Distributions shall be the same as the record dates and payment dates for the Debentures.

(d) All Distributions paid with respect to the Common Securities and the Preferred Securities will be paid Pro Rata (as defined below) to the Holders thereof entitled thereto. If an Event of Default has occurred and is continuing, the Preferred Securities shall have a priority over the Common Securities with respect to Distributions.

(e) In the event that there is any money or other property held by or for the Trust that is not accounted for under the Declaration, such money or property shall be distributed Pro Rata among the Holders of the Preferred Securities and the Common Securities.

3. Liquidation Distribution Upon Dissolution. (a) In the event of any voluntary or involuntary dissolution of the Trust, the Holders of the Preferred Securities and the Common Securities will be entitled to receive Pro Rata solely out of the assets of the Trust legally available for distribution to Holders of Preferred Securities and Common Securities after satisfaction of liabilities to the creditors of the Trust, an amount equal to the aggregate of the stated liquidation amount of \$50 per Preferred Security and Common Security plus accumulated and unpaid Distributions thereon to the date of payment (such amount being the "Liquidation Distribution"), unless, in connection with such dissolution, and after satisfaction of liabilities to the creditors of the Trust, Debentures in an aggregate principal amount equal to the aggregate stated liquidation amount of such Preferred Securities and the Common Securities and bearing accrued and unpaid interest in an amount equal to the accumulated and unpaid Distributions on, such Preferred Securities and the Common Securities, shall be distributed Pro Rata to the Holders of the Preferred Securities and the Common Securities in exchange for such Securities.



If, upon any such dissolution, the Liquidation Distribution can be paid only in part because the Trust has insufficient assets on hand legally available to pay in full the aggregate Liquidation Distribution, then the amounts payable directly by the Trust on the Preferred Securities and the Common Securities shall be paid, subject to the next paragraph, on a Pro Rata basis.

Holder of Common Securities will be entitled to receive Liquidation Distributions upon any such dissolution Pro Rata with Holders of Preferred Securities, except that if an Event of Default has occurred and is continuing, the Preferred Securities shall have a priority over the Common Securities with respect to such Liquidation Distribution.

(b) The Holder of the Common Securities shall have the right to direct the Property Trustee in writing at any time to dissolve the Trust and to distribute Debentures to Holders in exchange for Securities (which direction is optional and wholly within the discretion of the Holder of the Common Securities). Upon the receipt of any such written direction, the Property Trustee shall promptly (i) distribute Debentures in an aggregate principal amount equal to the aggregate stated liquidation amount of the Preferred Securities and the Common Securities held by each Holder, which Debentures bear accrued and unpaid interest in an amount equal to the accumulated and unpaid Distributions on the Preferred Securities and the Common Securities of such Holder, in

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exchange for the Preferred Securities and Common Securities of such Holder and (ii) dissolve the Trust.

(c) On the date fixed for any distribution of Debentures, upon dissolution of the Trust, (i) the Common Securities will no longer be deemed to be outstanding and may be canceled by the Regular Trustees and (ii) Certificates representing Common Securities will be deemed to represent beneficial interests in the Debentures having an aggregate principal amount equal to the stated liquidation amount of, and bearing accrued and unpaid interest equal to accumulated and unpaid Distributions on, such Common Securities until such Certificates are presented to Pogo or its agent for transfer or reissuance.

4. Redemption of Debentures. The Common Securities may be redeemed only if Debentures having an aggregate principal amount equal to the aggregate liquidation amount of the Preferred Securities and the Common Securities are repaid or redeemed as set forth below:

(a) Upon the repayment of the Debentures, in whole or in part, whether at maturity, upon redemption at any time or from time to time on or after June 1, 2002, the proceeds of such repayment will be promptly applied to redeem Pro Rata Preferred Securities and Common Securities having an aggregate liquidation amount equal to the aggregate principal amount of the Debentures so repaid or redeemed, upon not less than 30 nor more than 60 days' notice, at a cash redemption price per Common Security equal to the Optional Redemption Price (as such term is defined in the Supplemental Indenture per \$50 principal amount of Debenture, the date of any such repayment or redemption of Preferred Securities and Common Securities shall be established to coincide with the repayment or redemption date of the Debentures.

(b) If fewer than all the outstanding Preferred Securities and Common Securities are to be so redeemed, the Preferred Securities and the Common Securities will be redeemed Pro Rata and the Common

Securities will be redeemed as described in section 4(e)(ii) below. If a partial redemption would result in the delisting of the Preferred Securities by any national securities exchange or other organization on which the Preferred Securities are then listed or traded, Pogo pursuant to the Indenture will redeem Debentures only in whole and, as a result, the Trust may redeem the Common Securities only in whole.

(c) (i) If a Special Event shall occur and be continuing, the Regular Trustees shall give notice of such Special Event to the Property Trustee and shall direct the Conversion Agent to exchange all outstanding Common Securities for Debentures having a principal amount equal to the aggregate liquidation amount of the Common Securities to be exchanged and with accrued interest (including Additional Interest and Compounded Interest, if any) in an amount equal to any unpaid Distributions on the Common Securities; provided, however, that, in the case of a Tax Event, the Sponsor shall have the right to (i) direct that less than all, or none, as appropriate, of the Common Securities be so exchanged if and for so long as the Sponsor shall have elected to pay any Additional Interest (as defined in the Supplemental Indenture) such that the net amounts received by Holders of Common Securities not so exchanged in respect of Distributions and other distributions are not reduced as a result of such Tax Event, and shall not have revoked any such election or failed to make such payments or (ii) cause the Common Securities and Preferred Securities to be redeemed in the manner

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set forth below. If a Tax Event shall occur or be continuing, the Sponsor shall have the right within 90 days of the occurrence of such Tax Event, upon not less than 30 nor more than 60 days' notice, to redeem the Debentures, in whole but not in part, for cash at the Tax Redemption Price (as defined in the Supplemental Indenture), plus accrued and unpaid interest thereon (including Additional Interest and Compounded Interest, if any). Promptly following such redemption, Common Securities and Preferred Securities with an aggregate liquidation amount equal to the aggregate principal amount of the Debentures so redeemed will be redeemed by the Trust at a cash redemption price equal to, the Tax Redemption Price, plus accrued and unpaid Distributions thereon to the redemption date on a pro rata basis per \$50 principal amount of Debentures. The Common Securities will be redeemed Pro Rata with the Preferred Securities, except that if an Event of Default has occurred and is continuing, the Preferred Securities will have a priority over the Common Securities with respect to payment of the Tax Redemption Price.

(ii) Notice of any exchange pursuant to this Section 4(c) (an "Exchange Notice") of the Common Securities, which Exchange Notice shall be irrevocable, will be given by the Property Trustee by first-class mail to the Sponsor and to each record Holder of Common Securities and Preferred Securities to be exchanged not fewer than 30 nor more than 60 days prior to the date fixed for exchange thereof. For purposes of the calculation of the date of exchange and the dates on which notices are given pursuant to this paragraph (b), an Exchange Notice shall be deemed to be given on the day such notice is first mailed by first-class mail, postage prepaid, to each Holder. Each Exchange Notice shall be addressed to each Holder of Common Securities at the address of such Holder appearing in the books and records of the Trust. Each Exchange Notice shall state: (A) the exchange date; (B) the aggregate liquidation amount and any unpaid

Distributions on the Common Securities and Preferred Securities to be exchanged and the aggregate principal amount and any accrued interest on the Debentures to be exchanged therefor; (C) that on the exchange date the Common Securities to be so exchanged shall be exchanged for Debentures and that Distributions on the Common Securities so exchanged will cease to accumulate on and after said date; and (D) the identity of the Conversion Agent, if any, and the place or places where each Common Securities Certificate to be exchanged is to be surrendered in exchange for Debentures. No defect in the Exchange Notice or in the mailing thereof with respect to any Common Security shall affect the validity of the exchange proceedings for any other Common Security.

(iii) In the event that fewer than all the outstanding Common Securities are to be exchanged, then, on the exchange date, the particular Common Securities to be exchanged will be selected by the Property Trustee from the outstanding Common Securities not previously called for redemption or exchange on a pro rata basis. Any Common Securities Certificate that is to be exchanged only in part shall be surrendered with due endorsement or by a written instrument of transfer fully executed by the Holder thereof (or its attorney duly authorized in writing) and the Trust shall prepare and deliver to such Holder, without service charge, a new Common Securities Certificate or Certificates in aggregate stated liquidation amount equal to, and in exchange for, the unredeemed portion of the Common Securities Certificate so surrendered. The Common Securities shall be exchanged in a similar manner.

(iv) Each Holder, by becoming a party to the Declaration, will be deemed to have agreed to be bound by these exchange provisions in regard to the exchange of Common Securities for Debentures pursuant to the terms described above.

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(v) "Tax Event" means that the Sponsor and the Regular Trustees shall have received an Opinion of Counsel from independent nationally recognized tax counsel experienced in such matters to the effect that on or after May 26, 1999, as a result of (a) any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority thereof or therein, (b) any amendment to, or change in, an interpretation or application of any such laws or regulations by any legislative body, court, governmental agency or regulatory authority (including the enactment of any legislation or the publication of any judicial decision or regulatory determination), (c) any interpretation or pronouncement that provides for a position with respect to such laws or regulations that differs from its previous position or a theretofore commonly accepted position or (d) any action taken by any governmental agency or regulatory authority, which amendment or change is enacted, promulgated, issued or announced or which interpretation or pronouncement by any legislative body, court, governmental agency or regulatory authority is issued or announced or which action is taken, in each case on or after May 26, 1999, there is more than a remote risk that (i) the Trust is, or will be within 90 days of the date thereof,

subject to United States federal income tax with respect to income accrued or received on the Debentures, (ii) the Trust is, or will be within 90 days of the date thereof, subject to more than a de minimis amount of taxes, duties or other governmental charges or (iii) interest payable by Pogo to the Trust on the Debentures is not, or within 90 days of the date thereof will not be, deductible by Pogo for United States Federal income tax purposes.

(vi) "Investment Company Event" means that the Sponsor and the Regular Trustees shall have received an Opinion of Counsel from independent nationally recognized Counsel experienced in practice under the Investment Company Act that, as a result of the occurrence of a change in law or regulation or a change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority (a "Change in Investment Company Act Law"), there is more than an insubstantial risk that the Trust is or will be considered an Investment Company which is required to be registered under the Investment Company Act, which Change in Investment Company Act Law becomes effective on or after May 26, 1999.

(d) The Trust may not redeem fewer than all the outstanding Common Securities unless all accumulated and unpaid Distributions have been paid on all Common Securities for all quarterly Distribution periods terminating on or prior to the date of redemption.

(e) (i) Notice of any redemption of, or notice of distribution of Debentures in exchange for, the Preferred Securities and the Common Securities (a "Redemption/Distribution Notice") will be given by the Regular Trustees on behalf of the Trust by mail to each Holder of Preferred Securities and Common Securities to be redeemed or exchanged not less than 30 nor more than 60 days prior to the date fixed for redemption or exchange thereof. For purposes of the calculation of the date of redemption or exchange and the dates on which notices are given pursuant to this section 4(e) (i) a Redemption/Distribution Notice shall be deemed to be given on the day such notice is first mailed by first-class mail, postage prepaid, to Holders of Preferred Securities and Common Securities. Each Redemption/Distribution Notice shall be addressed to the Holders of

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Preferred Securities and Common Securities at the address of each such Holder appearing in the books and records of the Trust. No defect in the Redemption/Distribution Notice or in the mailing of either thereof with respect to any Holder shall affect the validity of the redemption or exchange proceedings with respect to any other Holder.

(ii) In the event that fewer than all the outstanding Common Securities are to be redeemed, the Common Securities to be redeemed will be redeemed Pro Rata from each Holder of Common Securities (subject to adjustment to eliminate fractional Common Securities).

(iii) If the Trust gives a Redemption/Distribution Notice in respect of a redemption of Common Securities as provided in this section 4 (which notice will be irrevocable), then immediately prior to the close of business on the redemption date, provided that Pogo has paid to the Property

Trustee in immediately available funds a sufficient amount of cash in connection with the related redemption or maturity of the Debentures, Distributions will cease to accumulate on the Common Securities called for redemption, such Common Securities will no longer be deemed to be outstanding and all rights of Holders of such Common Securities so called for redemption will cease, except the right of the Holders of such Common Securities to receive the Redemption Price, but without interest on such Redemption Price. Neither the Trustees nor the Trust shall be required to register or cause to be registered the transfer of any Common Securities which have been so called for redemption. If any date fixed for redemption of Common Securities is not a Business Day, then payment of the Redemption Price payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day falls in the next calendar year, such payment will be made on the immediately preceding Business Day, in each case with the same force and effect as if made on such date fixed for redemption. If payment of the Redemption Price in respect of Common Securities is improperly withheld or refused and not paid by the Property Trustee, Distributions on such Common Securities will continue to accumulate, from the original redemption date to the date of payment, in which case the actual payment date will be considered the date fixed for redemption for purposes of calculating the Redemption Price.

(iv) Redemption/Distribution Notices shall be sent by the Regular Trustees on behalf of the Trust to Holders of the Common Securities.

#### 5. Conversion Rights.

The Holders of Common Securities shall have the right at any time prior to the close of business on May 31, 2029 or, in the case of Common Securities called for redemption, prior to the close of business on the Business Day prior to the redemption date, at their option, to cause the Conversion Agent to convert Common Securities, on behalf of the converting Holders, into shares of Common Stock in the manner described herein on and subject to the following terms and conditions:

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(a) The Common Securities will be convertible at the office of the Conversion Agent into fully paid and nonassessable shares of Common Stock pursuant to the Holder's direction to the Conversion Agent to exchange such Common Securities for a portion of the Debentures theretofore held by the Trust on the basis of one Common Security per \$50 principal amount of Debentures, and immediately convert such amount of Debentures into fully paid and nonassessable shares of Common Stock at an initial rate of 2.1053 shares of Common Stock per \$50 principal amount of Debentures (which is equivalent to a conversion price of \$23.75 per share of Common Stock, subject to certain adjustments set forth in Sections 5.03 and 5.04 of the Supplemental Indenture (as so adjusted, "Conversion Price")).

(b) In order to convert Common Securities into Common Stock, the Holder shall submit to the Conversion Agent at the office referred to above an irrevocable request to convert Common Securities on behalf of such Holder (the "Conversion Request"), together, if the Common Securities are in certificated form, with such Common Security

Certificates. The Conversion Request shall (i) set forth the number of Common Securities to be converted and the name or names, if other than the Holder, in which the shares of Common Stock should be issued and (ii) direct the Conversion Agent (a) to exchange such Common Securities for a portion of the Debentures held by the Trust (at the rate of exchange specified in the preceding paragraph) and (b) to immediately convert such Debentures on behalf of such Holder, into Common Stock, subject to certain adjustments set forth in the Supplemental Indenture (at the conversion rate specified in the preceding paragraph). The Conversion Agent shall notify the Trust of the Holder's election to exchange Common Securities for a portion of the Debentures held by the Trust, and the Trust shall, upon receipt of such notice, deliver to the Conversion Agent the appropriate principal amount of Debentures for exchange in accordance with this Section. The Conversion Agent shall thereupon notify the Sponsor of the Holder's election to convert such Debentures into shares of Common Stock. If a Common Security is surrendered for conversion after the close of business on any regular record date for payment of a Distribution and before the opening of business on the corresponding Distribution payment date, then, notwithstanding such conversion, the Distribution payable on such Distribution payment date will be paid in cash to the person in whose name the Common Security is registered at the close of business on such record date. Except as provided above, neither the Trust nor the Sponsor will make, or be required to make, any payment, allowance or adjustment upon any conversion on account of any accumulated and unpaid Distributions accumulated on the Common Securities surrendered for conversion, or on account of any accumulated and unpaid dividends on the shares of Common Stock issued upon such conversion, and the delivery of Common Stock upon conversion of the Common Securities shall be deemed to constitute full payment for all accumulated and unpaid Distributions on the Common Securities. Common Securities shall be deemed to have been converted immediately prior to the close of business on the day on which a Conversion Request relating to such Common Securities is received by the Trust in accordance with the foregoing provision (the "Conversion Date"). The Person or Persons entitled to receive Common Stock issuable upon conversion of the Debentures shall be treated for all purposes as the record holder or holders of such Common Stock at such time. As promptly as practicable on or after the Conversion Date, the Sponsor shall issue and deliver at the office of the Conversion Agent a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion, together with the cash payment, if

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any, in lieu of any fraction of any share to the Person or Persons entitled to receive the same calculated in the manner set forth in Section 5.02(e) of the Supplemental Indenture, unless otherwise directed by the Holder in the Conversion Request, and the Conversion Agent shall distribute such certificate or certificates, together with the applicable cash payment, if any, to such Person or Persons.

(c) Each Holder of a Common Security by his acceptance thereof appoints Wilmington Trust Company as the "Conversion Agent" for the purpose of effecting the conversion of Common Securities in accordance with this Section. In effecting the conversion and transactions described in this Section, the Conversion Agent shall be acting as agent of the Holders of Common Securities directing it to effect such conversion transactions. The Conversion Agent is hereby authorized (i) to exchange Common Securities from time to time for Debentures held by the Trust in connection with the conversion of such Common Securities in accordance with this Section and (ii) to convert all or a portion of the



Debentures into Common Stock and thereupon to deliver such shares of Common Stock in accordance with the provisions of this Section and to deliver to the Trust a new Debenture or Debentures for any resulting unconverted principal amount.

(d) No fractional shares of Common Stock will be issued as a result of conversion, but in lieu thereof, such fractional interest will be paid by the Sponsor in cash (based upon the Closing Price (as defined in the Supplemental Indenture) of Common Stock on the Conversion Date, which in turn will make such payment to the Holder or Holders of Common Securities so converted, or, if such day is not a day on which any securities are traded on the national securities exchange or quotation system used to determine the Closing Price, on the next such trading day.

(e) The Sponsor shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of the Debentures free from any preemptive or other similar rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the Debentures then outstanding. Notwithstanding the foregoing, the Sponsor shall be entitled to deliver upon conversion of Debentures, shares of Common Stock reacquired and held in the treasury of the Sponsor (in lieu of the issuance of authorized and unissued shares of Common Stock), so long as any such treasury shares are free and clear of all liens, charges, security interests or encumbrances. Any shares of Common Stock issued upon conversion of the Debentures shall be duly authorized, validly issued and fully paid and nonassessable. The Conversion Agent shall deliver the shares of Common Stock received upon conversion of the Debentures to the converting Holder of Common Securities free and clear of all liens, charges, security interests and encumbrances, except for United States withholding taxes. Whenever the Company issues shares of Common Stock upon conversion of Debentures and the Company has in effect at such time a share purchase rights agreement under which holders of Common Stock are issued rights ("Rights") entitling the holders under certain circumstances to purchase an additional share or shares of Common Stock or other capital stock of the Company, the Company will issue, together with each such share of Common Stock, such number of Rights (which number may be a fraction) as shall at that time be issuable with a share of Common Stock pursuant to such share purchase rights agreement. Each of the Sponsor and the Trust shall prepare and shall use its best

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efforts to obtain and keep in force such governmental or regulatory permits or other authorizations as may be required by law, and shall comply with all applicable requirements as to registration or qualification of Common Stock (and all requirements to list Common Stock issuable upon conversion of Debentures that are at the time applicable), in order to enable the Sponsor to lawfully issue Common Stock to the Trust upon conversion of the Debentures and the Trust to lawfully deliver Common Stock to each Holder of Common Securities upon conversion of the Securities.

(f) The Sponsor will pay any and all taxes that may be payable in respect of the issue or delivery of shares of Common Stock excluding United States withholding taxes on conversion of Debentures and the delivery of the shares of Common Stock by the Trust upon conversion of



the Common Securities. The Sponsor shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the Common Securities so converted were registered, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Conversion Agent the amount of any such tax, or has established to the satisfaction of the Trust that such tax has been paid.

(g) Nothing in the preceding section 5(f) shall limit the requirement of the Trust to withhold taxes pursuant to the terms of the Common Securities or set forth in this Exhibit C to the Declaration or to the Declaration itself or otherwise require the Property Trustee or the Trust to pay any amounts on account of such withholdings.

6. Voting Rights. (a) Except as provided under section 6(b) below and as otherwise required by law and the Declaration, the Holders of the Common Securities will have no voting rights.

(b) Holders of Common Securities have the sole right under the Declaration to increase or decrease the number of Trustees, and to appoint, remove or replace a Trustee, any such increase, decrease, appointment, removal or replacement to be approved by Holders of Common Securities representing a Majority in liquidation amount of the Common Securities.

If any proposed amendment to the Declaration provides for, or the Regular Trustees otherwise propose to effect, (i) any action that would adversely affect the powers, preferences or special rights of the Securities, whether by way of amendment to the Declaration, other than as described in Section 12.01(b) of the Declaration, or otherwise, or (ii) the dissolution, winding-up or termination of the Trust, other than as described in Section 8.01 of the Declaration or section 3 of this Exhibit C, then the Holders of outstanding Securities will be entitled to vote on such amendment or proposal as a single class and such amendment or proposal shall not be effective except with the approval of the Holders of Securities of at least a Majority in liquidation amount of the Securities, voting together as a single class; provided, however, that (A) if any amendment or proposal referred to in clause (i) above would adversely affect only the Preferred Securities or the Common Securities, then only the affected class of Securities will be entitled to vote on such amendment or proposal and such amendment or proposal shall not be effective except with the approval of at least a Majority in liquidation amount of such class of Securities, (B) the rights of Holders of Common Securities under Section 5.02 of the Declaration to increase or decrease the number of, and to appoint, replace or

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remove, Trustees shall not be amended without the consent of each Holder of Common Securities, and (C) amendments to the Declaration shall be subject to such further requirements as are set forth in Sections 12.01 and 12.02 of the Declaration.

In the event the consent of the Property Trustee, as the holder of the Debentures, is required under the Indenture with respect to any amendment, modification or termination of the Indenture or the Debentures, the Property Trustee shall request the written direction of the Holders of the Securities with respect to such amendment, modification or termination. The Property Trustee shall vote with respect to such amendment, modification or termination as directed by a Majority in liquidation amount of the Securities voting together as a single class; provided, however, that where such amendment,

modification or termination of the Indenture requires the consent or vote of (1) holders of Debentures representing a specified percentage greater than a majority in principal amount of the Debentures or (2) each holder of Debentures, the Property Trustee may only vote with respect to that amendment, modification or termination as directed by, in the case of clause (1) above, the vote of Holders of Securities representing such specified percentage of the aggregate liquidation amount of the Securities, or, in the case of clause (2) above, each Holder of Securities; and provided, further, that the Property Trustee shall be under no obligation to take any action in accordance with the directions of the Holders of Securities unless the Property Trustee shall have received, at the expense of the Sponsor, an Opinion of Counsel experienced in such matters to the effect that the Trust will not be classified for United States Federal income tax purposes as other than a grantor trust on account of such action.

So long as any Debentures are held by the Property Trustee, the Trustees shall not (i) direct the time, method and place of conducting any proceeding for any remedy available to the Trustee of the Indenture (the "Debenture Trustee"), or exercising any trust or power conferred on such Debenture Trustee with respect to the Debentures, (ii) waive any past default that is waivable under Section 6.06 of the Indenture or (iii) exercise any right to rescind or annul a declaration of acceleration of the maturity of the principal of the Debentures, without, in each case, obtaining the prior approval of the Holders of a Majority in liquidation amount of all outstanding Common Securities and Preferred Securities. The Trustees shall not revoke any action previously authorized or approved by a vote of the Holders of the Common Securities except by subsequent vote of such Holders. The Property Trustee shall notify each Holder of Common Securities of any notice of default with respect to the Debentures.

Notwithstanding any other provision of these terms, each Holder of Common Securities will be deemed to have waived any Event of Default with respect to the Common Securities and its consequences until all Events of Default with respect to the Preferred Securities have been cured, waived by the Holders of Preferred Securities as provided in the Declaration or otherwise eliminated, and until all Events of Default with respect to the Preferred Securities have been so cured, waived by the Holders of Preferred Securities or otherwise eliminated, the Property Trustee will be deemed to be acting solely on behalf of the Holders of Preferred Securities and only the Holders of the Preferred Securities will have the right to direct the Property Trustee in accordance with the terms of the Declaration or of the Securities. In the event that any Event of Default with respect to the Preferred Securities is waived by the Holders of Preferred Securities as provided in the Declaration, the Holders of Common Securities agree that such waiver shall also constitute the waiver of such

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Event of Default with respect to the Common Securities for all purposes under the Declaration without any further act, vote or consent of the Holders of the Common Securities.

A waiver of an Indenture Event of Default by the Property Trustee at the direction of the Holders of the Preferred Securities will constitute a waiver of the corresponding Event of Default under the Declaration in respect of the Securities.

Any required approval or direction of Holders of Common Securities may be given at a separate meeting of Holders of Common Securities convened for such purpose, at a meeting of all of the Holders of Securities or pursuant to written consent. The Regular Trustees will cause a notice of any meeting at which Holders of Common Securities are entitled to vote to be mailed to each Holder of record of Common Securities. Each such notice will include a statement setting

forth (i) the date of such meeting, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote and (iii) instructions for the delivery of proxies.

No vote or consent of the Holders of Common Securities will be required for the Trust to redeem and cancel Common Securities or to distribute the Debentures in accordance with the Declaration.

7. Pro Rata Treatment. A reference in these terms of the Common Securities to any payment, Distribution or treatment as being "Pro Rata" shall mean pro rata to each Holder of Securities according to the aggregate liquidation amount of the Securities held by the relevant Holder in relation to the aggregate liquidation amount of all Securities outstanding unless, in relation to a payment, an Event of Default has occurred and is continuing, in which case any funds available to make such payment shall be paid first to each Holder of the Preferred Securities pro rata according to the aggregate liquidation amount of Preferred Securities held by the relevant Holder relative to the aggregate liquidation amount of all Preferred Securities outstanding, and only after satisfaction of all amounts owed to the Holders of the Preferred Securities, to each Holder of Common Securities pro rata according to the aggregate liquidation amount of Common Securities held by the relevant Holder relative to the aggregate liquidation amount of all Common Securities outstanding.

8. Ranking. The Common Securities rank pari passu and payment thereon will be made Pro Rata with the Preferred Securities, except that when an Event of Default occurs and is continuing, the rights of Holders of Common Securities to payment in respect of Distributions and payments upon liquidation, redemption or otherwise are subordinate to the rights of Holders of the Preferred Securities.

9. Transfer, Exchange, Method of Payments. Payment of Distributions and payments on redemption of the Common Securities will be payable, the transfer of the Common Securities will be registrable, and Common Securities will be exchangeable for Common Securities of other denominations of a like aggregate liquidation amount, at the principal corporate trust office of the Property Trustee in The City of New York; provided that payment of Distributions may be made at the option of the Regular Trustees on behalf of the Trust by check mailed to the address of the persons entitled thereto and that the payment on redemption of any Common Security will be made only upon surrender of such Common Security to the Property Trustee. Notwithstanding the

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foregoing, transfers of Common Securities are subject to conditions set forth in Section 9.01(c) of the Declaration.

10. Acceptance of Indenture. Each Holder of Common Securities, by the acceptance thereof, agrees to the provisions of Indenture and the Debentures, including the subordination provisions of the Indenture.

11. No Preemptive Rights. The Holders of Common Securities shall have no preemptive or similar rights to subscribe to any additional Common Securities or Preferred Securities.

12. Miscellaneous. These terms shall constitute a part of the Declaration. The Trust will provide a copy of the Declaration and the Indenture to a Holder of Common Securities without charge on written request to the Trust at its principal place of business.



AND IS ENTITLED TO THE BENEFITS THEREUNDER.

IN WITNESS WHEREOF, THE TRUSTEES OF THE TRUST HAVE EXECUTED THIS  
CERTIFICATE THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_.

POGO TRUST I

BY \_\_\_\_\_, AS REGULAR TRUSTEE  
NAME: JOHN W. ELSENHANS  
TITLE: REGULAR TRUSTEE

BY \_\_\_\_\_, AS REGULAR TRUSTEE  
NAME: GERALD A. MORTON  
TITLE: REGULAR TRUSTEE

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[FORM OF REVERSE OF SECURITY]

Distributions payable on each Common Security will be fixed at a rate per annum of 6 1/2% (the "Coupon Rate") of the stated liquidation amount of \$50 per Common Security, such rate being the rate of interest payable on the Debentures to be held by the Property Trustee. Distributions in arrears for more than one calendar quarter will accumulate additional distributions thereon at the Coupon Rate per annum (to the extent permitted by applicable law) compounded quarterly. The term "Distributions" as used herein means such periodic cash distributions and any such additional distributions payable unless otherwise stated. A Distribution is payable only to the extent that payments are made in respect of the Debentures held by the Property Trustee and to the extent the Trust has funds on hand legally available therefor. The amount of Distributions payable for any period will be computed for any full quarterly Distribution period on the basis of a 360-day year of twelve 30-day months, and for any period shorter than a full quarterly Distribution period for which Distributions are computed, Distributions will be computed on the basis of the actual number of days elapsed per 90-day quarter.

Distributions on the Common Securities will accumulate from June 2, 1999 and will be payable quarterly in arrears, on March 1, June 1, September 1 and December 1 of each year, commencing on September 1, 1999, but only if and to the extent that interest payments are made in respect of the Debentures held by the Property Trustee. So long as Pogo shall not be in default in the payment of interest on the Debentures, Pogo has the right under the Indenture for the Debentures to defer payments of interest on the Debentures by extending the interest payment period at any time and from time to time on the Debentures for a period not exceeding 20 consecutive quarterly interest periods (each an "Extension Period"), during which Extension Period no interest shall be due and payable on the Debentures. As a consequence of such deferral, Distributions shall also be deferred. Despite such deferral, Distributions will continue to accumulate with additional distributions thereon (to the extent permitted by applicable law but not at a rate greater than the rate at which interest is then accruing on the Debentures) at the Coupon Rate compounded quarterly during any such Extension Period; provided that no Extension Period shall extend beyond the stated maturity of the Debentures. Prior to the termination of any such Extension Period, Pogo may further extend such Extension Period; provided that such Extension Period together with all such previous and further extensions thereof may not exceed 20 consecutive quarterly interest periods. Upon the termination of any Extension Period and the payment of all amounts then due,

Pogo may commence a new Extension Period, subject to the above requirements. On the Distribution payment date at the end of the Extension Period, payments of accumulated Distributions will be payable to Holders of Common Securities as they appear on the books and records of the Trust (regardless of who the Holders may have been on other dates during the Extension Period) on the record date for such Distribution payment date.

The Common Securities shall be redeemable or subject to mandatory exchange upon the occurrence of a Special Event as provided in the Declaration.

The Common Securities shall be convertible into shares of Common Stock (as defined in the Declaration), through (i) the exchange of Common Securities for a portion of the Debentures and (ii) the immediate conversion of such Debentures into Common Stock, in the manner and according to the terms set forth in the Declaration upon submission of a Conversion Request (as defined in the

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Declaration) to the Conversion Agent (as defined in the Declaration). A form of Conversion Request is provided at the end of this Common Securities Certificate.

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#### CONVERSION REQUEST

To: Wilmington Trust Company,  
as Property Trustee of Pogo Trust I

The undersigned owner of these Common Securities hereby irrevocably exercises the option to convert these Common Securities, or the portion below designated, into Common Stock (as that term is defined in the Amended and Restated Declaration of Trust dated as of June 2, 1999 (as amended from time to time, the "Declaration"), by John O. McCoy, John W. Elsenhans and Gerald A. Morton, as Regular Trustees, Wilmington Trust Company, as the Delaware Trustee, Wilmington Trust Company, as the Property Trustee, Pogo Producing Company, as Sponsor, and by the Holders, from time to time, of undivided beneficial interests in the assets of the Trust to be issued pursuant to the Declaration) in accordance with and subject to the terms and conditions of the Declaration. Pursuant to the aforementioned exercise of the option to convert these Common Securities, the undersigned hereby directs the Conversion Agent (as that term is defined in the Declaration) to (i) exchange such Common Securities for a portion of the Debentures (as that term is defined in the Declaration) held by Pogo Trust I (at the rate of exchange specified in the terms of the Common Securities set forth as Exhibit C to the Declaration) and (ii) immediately convert such Debentures on behalf of the undersigned, into Common Stock (at the conversion rate specified in the terms of the Common Securities set forth as Exhibit C to the Declaration), subject to certain adjustments set forth in the Supplemental Indenture (as that term is defined in the Declaration).

The undersigned does also hereby direct the Conversion Agent that the shares of Common Stock issuable and deliverable upon conversion, together with any check in payment for fractional shares, be issued in the name of and delivered to the undersigned, unless a different name has been indicated in the assignment below. If shares of Common Stock are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Date: \_\_\_\_\_, \_\_\_\_\_  
in whole \_\_\_\_ in part \_\_\_\_

Number of Common Securities to be converted:  
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If a name or names other than the undersigned, please indicate in the spaces below the name or names in which the shares of Common Stock are to be issued, along with the address or addresses of such person or persons:

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Signature (for conversion only)

Please Print or Type Name and Address, Including Zip Code, and Social Security or Other Identifying Number

-----  
-----  
-----

Signature Guarantee: (1) \_\_\_\_\_

-----  
\*(Signature must be guaranteed by an institution which is a member of one or the following recognized Signature Guaranty Programs: (i) The Securities Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MSP); (iii) The Stock Exchange Medallion Program (SEMP); or (iv) in such other guarantee programs acceptable to the Trustee.)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Common Security Certificate to:

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-----

(Insert assignee's social security or tax identification number)



-----  
-----  
(Insert address and zip code of assignee)

and irrevocably appoints

-----  
-----

\_\_\_\_\_ agent to transfer this  
Common Security Certificate on the books of the Trust. The agent may substitute  
another to act for him or her.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the other side of this Common Security  
Certificate)

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-----  
POGO PRODUCING COMPANY

AND

WILMINGTON TRUST COMPANY

AS TRUSTEE

-----  
JUNIOR SUBORDINATED INDENTURE

DATED AS OF JUNE 1, 1999

-----  
JUNIOR SUBORDINATED DEBENTURES

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SUBORDINATION OF DEBENTURES

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THIS SUBORDINATED INDENTURE is dated as of the first day of June, 1999, between Pogo Producing Company, a corporation duly organized and existing under the laws of the State of Delaware (hereinafter sometimes referred to as the "Company"), and Wilmington Trust Company, a Delaware banking corporation, as Trustee (hereinafter sometimes referred to as the "Trustee"):

WHEREAS, for its lawful corporate purposes, the Company has fully authorized the execution and delivery of this Indenture to provide for the issuance of unsecured junior subordinated debentures (hereinafter referred to as the "Debentures"), in an unlimited aggregate principal amount to be issued

from time to time in one or more series in accordance with the terms of this Indenture, as registered Debentures without coupons, to be authenticated by the certificate of the Trustee;

WHEREAS, to provide the terms and conditions upon which the Debentures are to be authenticated, issued and delivered, the Company has duly authorized the execution of this Indenture;

WHEREAS, the Debentures and the certificate of authentication to be borne by the Debentures (the "Certificate of Authentication") are to be substantially in such forms as may be approved by the Board of Directors (as defined below) or set forth in any indenture supplemental to this Indenture;

AND WHEREAS, all acts and things necessary to make the Debentures issued pursuant hereto, when executed by the Company and authenticated and delivered by the Trustee in accordance with the terms of this Indenture, the valid, binding and legal obligations of the Company, and to constitute a valid indenture and agreement according to its terms, have been done and performed or will be done and performed prior to the issuance of such Debentures, and the execution of this Indenture has been and the issuance hereunder of the Debentures has been or will be prior to issuance in all respects duly authorized, and the Company, in the exercise of the legal right and power in it vested, executes this Indenture and proposes to make, execute, issue and deliver the Debentures;

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Debentures are and are to be authenticated, issued and delivered, and in consideration of the premises and of the acquisition and acceptance of the Debentures by the holders thereof, the Company covenants and agrees with the Trustee, for the equal and proportionate benefit (subject to the provisions of this Indenture) of the respective holders from time to time of the Debentures, without any discrimination, preference or priority of any one Debenture over any other by reason of priority in the time of issue, sale or negotiation thereof, or otherwise, except as provided herein, as follows:

## ARTICLE 1 DEFINITIONS

SECTION 1.01. DEFINITIONS. The terms defined in this Section (except as in this Indenture otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture, any resolution of the Board of Directors of the Company and of any indenture supplemental hereof shall have the respective meanings specified in this Section. All other terms used in this Indenture which are defined in the Trust Indenture Act of 1939, as amended, or which are by reference in such Act defined in the Securities Act of 1933, as amended (except as herein otherwise expressly provided or unless the context otherwise requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date of this instrument.



"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of this definition, beneficial ownership of 10% or more of the voting common equity (on a fully diluted basis) or options or warrants to purchase such equity (but only if exercisable at the date of determination or within 60 days thereof) of a Person shall be deemed to constitute control of such Person.

"Authenticating Agent" means an authenticating agent with respect to all or any of the series of Debentures, as the case may be, appointed with respect to all or any series of the Debentures, as the case may be, by the Trustee pursuant to Section 2.10.

"Board of Directors" means the Board of Directors of the Company, or any committee of such Board duly authorized to act hereunder.

"Board Resolution" means a copy of one or more resolutions, certified by the secretary or an assistant secretary of the Company to have been adopted or consented to by the Board of Directors and to be in full force and effect, and delivered to the Trustee.

"Business Day", with respect to any series of Debentures, means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in the Borough of Manhattan, The City and State of New York, Wilmington, Delaware or Houston, Texas are authorized or obligated by law or executive order to close.

"Capital Stock" means, with respect to any Person, any and all shares, interests, participations, rights in or other equivalents in the equity interests (however designated) in such Person, and any rights (other than debt securities convertible into an equity interest),

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warrants or options exercisable for, exchangeable for or convertible into such an equity interest in such Person.

"Certificate" means a certificate signed by the principal executive officer, the principal financial officer or the principal accounting officer of the Company. The Certificate need not comply with the provisions of Section 13.06.

"Common Securities" means the common undivided beneficial interests in the assets of the applicable Trust.

"Company" means Pogo Producing Company, a corporation duly organized and existing under the laws of the State of Delaware, and, subject to the provisions of Article 10, shall also include its successors and assigns.

"Corporate Trust Office" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date of the execution of this Indenture is located at 1100 North Market Street, Wilmington, Delaware 19810, Attention: Corporate Trust Administration.

"Debenture" or "Debentures" means any Debenture or Debentures, as the case may be, authenticated and delivered under this Indenture.

"Debenture Register" has the meaning assigned in Section 2.05(b).

"Debenture Registrar" has the meaning assigned in Section 2.05(b).

"Debentureholder", "holder of Debentures", "registered holder", or other similar term, means the person or persons in whose name or names a particular Debenture shall be registered in the Debenture Register.

"Debt" means, with respect to any Person at any date of determination (without duplication), (i) all indebtedness of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses, (iii) all obligations of such Person in respect of letters of credit or bankers' acceptances or other similar instruments (or reimbursement obligations thereto) issued on the account of such person, (iv) all obligations of such person to pay the deferred purchase price of property or services, except Trade Payables, (v) all obligations of such Person as lessee under capitalized leases, (vi) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person; PROVIDED that, for purposes of determining the amount of any Debt of the type described in this clause (vi), if recourse with respect to such Debt is limited to such asset, the amount of such Debt shall be limited to the lesser of the fair market value of such asset or the amount of such Debt, (vii) all Debt of others Guaranteed by such Person to the extent such Debt is Guaranteed by such Person, and (viii) to the extent not

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otherwise included in this definition, all obligations of such Person for claims in respect of derivative products, including interest rate, foreign exchange rate and commodity prices, forward contracts, options, swaps, collars and similar arrangements.

"Declaration of Trust" means the Amended and Restated Declaration of Trust of a Trust, if any, specified in the applicable Board Resolution or supplemental indenture establishing a particular series of Debentures pursuant to Section 2.01 hereof.

"Default" means any event, act or condition which with notice or lapse of time, or both, would constitute an Event of Default hereunder.

"Depository" means with respect to Debentures of any series, for which the Company shall determine that such Debentures will be issued as one or

more Global Debentures, The Depository Trust Company, New York, New York, another clearing agency, or any successor registered as a clearing agency under the Exchange Act, or other applicable statute or regulation, which, in each case, shall be designated by the Company pursuant to either Section 2.01 or 2.11.

"Event of Default", with respect to Debentures of a particular series means any event specified in Section 6.01(a), continued for the period of time, if any, and the giving of the notice, if any, therein designated.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Global Debenture" means, with respect to any series of Debentures, a Debenture in the form prescribed by Section 2.11 executed by the Company and delivered by the Trustee to the Depository or pursuant to the Depository's instruction, all in accordance with the Indenture, which shall be registered in the name of the Depository or its nominee.

"Governmental Obligations" means securities that are (i) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (ii) non-callable obligations of a person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a) (2) of the Securities Act) as custodian with respect to any such Governmental Obligation or a specific payment of principal of or interest on any such Governmental Obligation held by such custodian for the account of the holder of such depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Governmental Obligation or the specific payment of principal of or interest on the Governmental Obligation evidenced by such depository receipt.

"Guarantee" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation of such other Person (whether arising by virtue of partnership arrangements, or by agreement to keep well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for purposes of assuring in any other manner the obligee of such Debt of other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); PROVIDED that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"Indenture" means this instrument as originally executed, or, if amended or supplemented as herein provided, as so amended or supplemented.

"Interest Payment Date" when used with respect to any installment of interest on a Debenture of a particular series means the date specified in such Debenture or in a Board Resolution or in an indenture supplemental hereto with respect to such series as the fixed date on which an installment of interest with respect to Debentures of that series is due and payable.

"Lien" means, with respect to any property, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such property. For purposes of this Indenture, the Company shall be deemed to own subject to a Lien any property which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such property.

"Officers' Certificate" means a certificate signed by the President or a Vice President and by the Treasurer or an Assistant Treasurer or the Controller or an Assistant Controller or the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee. Each such certificate shall include the statements provided for in Section 13.06, if and to the extent required by the provisions thereof.

"Opinion of Counsel" means an opinion in writing signed by legal counsel, who may be counsel for the Company, a Trust or the Trustee, which may be an employee of the Company but not an employee of a Trust or the Trustee, and who shall be reasonably acceptable to the Trustee. Each such opinion shall include the statements provided for in Section 13.06, if and to the extent required by the provisions thereof.

"Outstanding", when used with reference to Debentures of any series, subject to the provisions of Section 8.01, means, as of any particular time, all Debentures of that series theretofore authenticated and delivered by the Trustee under this Indenture, except (a) Debentures theretofore cancelled by the Trustee or any paying agent, or delivered to the

Trustee or any paying agent for cancellation or which have previously been cancelled; (b) Debentures or portions thereof for the payment or redemption of which moneys or Governmental Obligations in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Company) or shall have been set aside and segregated in trust for the holders of such Debentures by the Company (if the Company shall act as its own paying agent); PROVIDED, HOWEVER, that if such Debentures or portions of such Debentures are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article 3 provided, or provision satisfactory to the Trustee shall have been made for giving such notice; (c) Debentures paid pursuant to Section 2.07; and (d) Debentures in lieu of or in substitution for which other Debentures shall have been authenticated and delivered pursuant to the terms of Section 2.07; PROVIDED, HOWEVER, that in determining whether the holders of the requisite principal amount of Outstanding Debentures are present at a meeting of holders of Debentures for quorum purposes or have consented to or voted in favor of any

request, demand, authorization, direction, notice, consent, waiver, amendment or modification hereunder, Debentures held for the account of the Company, any of its Subsidiaries or any of its Affiliates shall be disregarded and deemed not to be Outstanding, except that in determining whether the Trustee shall be protected in making such a determination or relying upon any such quorum, consent or vote, only Debentures which the Trustee actually knows to be so owned shall be so disregarded.

"Person" means any individual, corporation, estate, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Place of Payment", when used with respect to the Debentures of any series, means the place or places where the principal of and any premium and interest on the Debentures of that series are payable as specified by Section 2.01.

"Predecessor Debenture" of any particular Debenture means every previous Debenture evidencing all or a portion of the same debt as that evidenced by such Debenture; and, for the purposes of this definition, any Debenture authenticated and delivered under Section 2.07 in lieu of a lost, destroyed or stolen Debenture shall be deemed to evidence the same debt as the lost, destroyed or stolen Debenture.

"Preferred Securities" means the preferred undivided beneficial interests in the assets of the applicable Trust.

"Property Trustee" means the entity performing the function of the Property Trustee under the applicable Declaration of Trust of a Trust.

"Responsible Officer" shall mean, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who

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at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"Securities Act" means the Securities Act of 1933, as amended.

"Security Exchange" when used with respect to the Debentures of any series which are held as trust assets of a Trust pursuant to the Declaration of Trust of such Trust, means the distribution of the Debentures of such series by such Trust in exchange for the Preferred Securities and Common Securities of such Trust in dissolution of such Trust pursuant to the Declaration of Trust of such Trust.

"Senior Debt" means the principal of (and premium, if any) and interest

on all Debt of the Company whether created, incurred or assumed before, on or after the date of this Indenture; PROVIDED that such Senior Debt shall not include (i) Debt of the Company that, when incurred and without respect to any election under Section 1111(b) of Title 11, U.S. Code, was without recourse, and (ii) any other Debt of the Company which by the terms of the instrument creating or evidencing the same is specifically designated as being subordinated to or PARI PASSU with the Debentures, and in particular the Debentures shall rank PARI PASSU with all other debt securities and guarantees issued to any trust, partnership or other entity affiliated with the Company which is a financing vehicle of the Company in connection with an issuance of securities by such financing entity, which securities are substantially similar to the Preferred Securities.

"Subsidiary" means, with respect to any Person, a corporation, partnership, limited liability company, association or other business entity a majority of whose Voting Stock is at the time, directly or indirectly, owned by such Person, by one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries thereof. For purposes of the foregoing definition, an arrangement by which a Person who owns an interest in an oil and gas property is subject to a joint operating agreement, processing agreement, net profits interest, overriding royalty interest, farmout agreement, development agreement, area of mutual interest agreement, joint bidding agreement, unitization agreement, pooling arrangement or other similar agreement or arrangement shall not, in and of itself, be considered a Subsidiary.

"Trade Payables" means, with respect to any Person, any accounts payable or any other indebtedness or monetary obligation to trade creditors created, assumed or Guaranteed by such Person or any of its Subsidiaries arising in the ordinary course of business in connection with the acquisition of goods or services.

"Trust" means any statutory business trust created under the laws of the State of Delaware by the Company, as sponsor, as specified in the applicable Board Resolution or supplemental indenture establishing a particular series of Debentures pursuant to Section 2.01 hereof.

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"Trustee" means Wilmington Trust Company, a Delaware banking corporation, and, subject to the provisions of Article 7, shall also include its successors and assigns, and, if at any time there is more than one person acting in such capacity hereunder, "Trustee" shall mean each such person. The term "Trustee" as used with respect to a particular series of the Debentures shall mean the trustee with respect to that series.

"Trust Indenture Act", subject to the provisions of Section 9.01 and 9.02, means the Trust Indenture Act of 1939, as amended and in effect at the date of execution of this Indenture.

"Voting Stock" means any class or classes of Capital Stock pursuant to which the holders thereof have the general voting power under ordinary circumstances to vote in the election of the board of directors, managers or trustees of any Person (irrespective of whether or not, at the time, Capital

Stock of any other class or classes shall have, or might have, voting power by reason of the happening of any contingency).

## ARTICLE 2

### ISSUE, DESCRIPTION, TERMS, EXECUTION REGISTRATION AND EXCHANGE OF DEBENTURES

SECTION 2.01. DESIGNATION, TERMS, AMOUNT, AUTHENTICATION AND DELIVERY OF DEBENTURES. The aggregate principal amount of Debentures which may be authenticated and delivered under this Indenture is unlimited.

The Debentures may be issued in one or more series up to the aggregate principal amount of Debentures of that series from time to time authorized by or pursuant to a Board Resolution or pursuant to one or more indentures supplemental hereto, prior to the initial issuance of Debentures of a particular series. Prior to the initial issuance of Debentures of any series, there shall be established in or pursuant to a Board Resolution, and set forth in an Officers' Certificate, or established in one or more indentures supplemental hereto:

- (1) the title of the Debentures of the series (which shall distinguish the Debentures of the series from all other Debentures);
- (2) any limit upon the aggregate principal amount of the Debentures of that series which may be authenticated and delivered under this Indenture (except for Debentures authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, other Debentures of that series);
- (3) the date or dates on which the principal of the Debentures of the series is payable and the right to shorten, extend or defer such date or dates;
- (4) the rate or rates at which the Debentures of the series shall bear interest or the manner of calculation of such rate or rates, if any;
- (5) the date or dates from which such interest shall accrue, the Interest Payment Dates on which such interest will be payable or the manner of determination of such Interest Payment Dates and the record date for the determination of holders to whom interest is payable on any such Interest Payment Dates;
- (6) the right, if any, to extend or defer the interest payment periods and the duration of such extension;
- (7) the period or periods within which, the price or prices at which, and the terms and conditions upon which, Debentures of the series may be redeemed, in whole or in part, at the option of the Company;
- (8) the obligation, if any, of the Company to redeem or purchase



Debentures of the series pursuant to any sinking fund or analogous provisions (including payments made in cash in anticipation of future sinking fund obligations) or at the option of a holder thereof and the period or periods within which, the price or prices at which, the currency or currencies (including currency unit or units) in which and the terms and conditions upon which, Debentures of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(9) any exchangeability, conversion or prepayment provisions of the Debentures;

(10) the form of the Debentures of the series including the form of the Certificate of Authentication for such series;

(11) if other than denominations of \$25 or any integral multiple thereof, the denominations in which the Debentures of the series shall be issuable;

(12) whether the Debentures are issuable as one or more Global Debentures and, in such case, the identity of the Depositary for such series, the form of any legend or legends which shall be borne by any such Global Debentures in addition to or in lieu of that set forth in Section 2.11 and any circumstances in addition to or in lieu of those set forth in Section 2.11 in which any such Global Debentures may be exchanged in whole or in part for Debentures registered, and any transfer of such Global Debentures in whole or in part may be registered, in the name or names of Persons other than the Depositary for such Global Debentures or a nominee thereof;

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(13) if the Debentures of such series are to be deposited as trust assets in a Trust the name of the applicable Trust (which shall distinguish such statutory business trust from all other Trusts) into which the Debentures of such series are to be deposited as trust assets and the date of its Declaration of Trust;

(14) the place or places where the principal of (and premium, if any) and interest on the Debentures of such series shall be payable, the place or places where the Debentures of such series may be presented for registration of transfer or exchange, and the place or places where notices and demands to or upon the Company in respect of the Debentures of such series may be made;

(15) if other than U.S. dollars, the currency or currencies (including currency unit or units) in which the principal of (and premium, if any) and interest, if any, on the Debentures of the series shall be payable, or in which the Debentures of the series shall be denominated;

(16) the additions, modifications or deletions, if any, in the Events of Default or covenants of the Company set forth herein with respect to the Debentures of such series;

(17) if other than the principal amount thereof, the portion of the principal amount of Securities of such series that shall be payable upon declaration of acceleration of the maturity thereof;

(18) the additions or changes, if any, to this Indenture with respect to the Debentures of such series as shall be necessary to permit or facilitate the issuance of the Debentures of such series in bearer form, registrable or not registrable as to principal, and with or without interest coupons;

(19) any index or indices used to determine the amount of payments of principal of and premium, if any, on the Debentures of such series or the manner in which such amounts will be determined;

(20) the appointment of any paying agent or agents for the Debentures of such series;

(21) the relative degree, if any, to which the Debentures of such series shall be senior to or be subordinated to other series of Debentures in right of payment, whether such other series of Debentures are Outstanding or not; and

(22) any and all other terms with respect to the Debentures of such series (and any terms which may be required by or advisable under applicable laws or regulations not inconsistent with the terms of this Indenture).

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All Debentures of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to any such Board Resolution or in any indenture supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate setting forth the terms of the series.

SECTION 2.02. FORM OF DEBENTURE AND TRUSTEE'S CERTIFICATE. The Debentures of any series and the Trustee's certificate of authentication to be borne by such Debentures shall be substantially of the tenor and purport as set forth in one or more indentures supplemental hereto or as provided in a Board Resolution and as set forth in an Officers' Certificate, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements typewritten, printed, lithographed or engraved thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any stock exchange or automated quotation system on which Debentures of that series may be listed or traded, or to conform to usage.

SECTION 2.03. DATE AND DENOMINATIONS OF DEBENTURES AND PROVISIONS FOR

PAYMENT OF PRINCIPAL, PREMIUM AND INTEREST. The Debentures shall be issuable as registered Debentures and in the denominations of \$25 or any integral multiple thereof, subject to Section 2.01(11). The Debentures of a particular series shall bear interest payable on the dates and at the rate specified with respect to that series. The principal of and the interest on the Debentures of any series, as well as any premium thereon in case of redemption thereof prior to maturity, shall, subject to Section 2.01(8) and (15), be payable in the coin or currency of the United States of America which at the time is legal tender for public and private debt, at Place of Payment. Each Debenture shall be dated the date of its authentication. Interest on the Debentures shall be computed on the basis of a 360-day year composed of twelve 30-day months, subject to Section 2.01(5).

The interest installment on any Debenture which is payable, and is punctually paid or duly provided for, on any Interest Payment Date for Debentures of that series shall be paid to the person in whose name said Debenture (or one or more Predecessor Debentures) is registered at the close of business on the regular record date for such interest installment. In the event that any Debenture of a particular series or portion thereof is called for redemption and the redemption date is subsequent to a regular record date with respect to any Interest Payment Date and prior to such Interest Payment Date, interest on such Debenture will be paid upon presentation and surrender of such Debenture as provided in Section 3.03.

Any interest on any Debenture which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date for Debentures of the same series (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered holder on the

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relevant regular record date by virtue of having been such holder; and such Defaulted Interest shall be paid by the Company, at its election, as provided in clause (1) or clause (2) below:

(1) The Company may make payment of any Defaulted Interest on Debentures to the persons in whose names such Debentures (or their respective Predecessor Debentures) are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Debenture and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a special record date for the payment of such Defaulted Interest which shall not be more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the

proposed payment. The Trustee shall promptly notify the Company of such special record date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be mailed, first class postage prepaid, to each Debentureholder at his or her address as it appears in the Debenture Register, not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names such Debentures (or their Predecessor Debentures) are registered on such special record date and shall be no longer payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest on any Debentures in any other lawful manner not inconsistent with the requirements of any securities exchange or automated quotation system on which such Debentures may be listed or traded, and upon such notice as may be required by such exchange or quotation system, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Unless otherwise set forth in a Board Resolution or one or more indentures supplemental hereto establishing the terms of any series of Debentures pursuant to Section 2.01 hereof, the term "regular record date" as used in this Section with respect to a series of Debentures with respect to any Interest Payment Date for such series shall mean either the fifteenth day of the month immediately preceding the month in which an Interest Payment

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Date established for such series pursuant to Section 2.01 hereof shall occur, if such Interest Payment Date is the first day of a month, or the last day of the month immediately preceding the month in which an Interest Payment Date established for such series pursuant to Section 2.01 hereof shall occur, if such Interest Payment Date is the fifteenth day of a month, whether or not such date is a Business Day.

Subject to the foregoing provisions of this Section, each Debenture of a series delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Debenture of such series shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Debenture.

SECTION 2.04. EXECUTION OF DEBENTURES. The Debentures shall, subject to the provisions of Section 2.06, be printed on steel engraved borders or fully or partially engraved, or legibly typed, as the proper officers of the Company may determine, and shall be signed on behalf of the Company by the Chairman or Vice Chairman of its Board of Directors or its Chief Executive Officer, President or one of its Vice Presidents, under its corporate seal attested by its Secretary or one of its Assistant Secretaries. The signature of the Chairman, Vice Chairman, Chief Executive Officer, President or a Vice President and/or the signature of the Secretary or an Assistant Secretary in

attestation of the corporate seal, upon the Debentures, may be in the form of a manual or facsimile signature and may be imprinted or otherwise reproduced on the Debentures and for that purpose the Company may use the manual or facsimile signature of any person who shall have been a Chairman, Vice Chairman, Chief Executive Officer, President or Vice President, or of any person who shall have been a Secretary or Assistant Secretary, notwithstanding the fact that at the time the Debentures shall be authenticated and delivered or disposed of such person shall have ceased to be the Chairman, Vice Chairman, President or a Vice President, or the Secretary or an Assistant Secretary, of the Company, as the case may be. The seal of the Company may be in the form of a facsimile of the seal of the Company and may be impressed, affixed, imprinted or otherwise reproduced on the Debentures.

Only such Debentures as shall bear thereon a Certificate of Authentication substantially in the form established for such Debentures, executed manually by an authorized signatory of the Trustee, or by any Authenticating Agent with respect to such Debentures, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate executed by the Trustee, or by any Authenticating Agent appointed by the Trustee with respect to such Debentures, upon any Debenture executed by the Company shall be conclusive evidence that the Debenture so authenticated has been duly authenticated and made available for delivery hereunder and that the holder is entitled to the benefits of this Indenture. Notwithstanding the foregoing, if any Debenture shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Debenture to the Trustee for cancellation as provided in Section 2.08, for all purposes of this Indenture such Debenture shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

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At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Debentures of any series executed by the Company to the Trustee for authentication, together with a written order of the Company for the authentication and delivery of such Debentures, signed by its President or any Vice President and its Treasurer or any Assistant Treasurer, and the Trustee in accordance with such written order shall authenticate and make available for delivery such Debentures. Each Debenture shall be dated the date of its authentication by the Trustee.

In authenticating such Debentures and accepting the additional responsibilities under this Indenture in relation to such Debentures, the Trustee shall be entitled to receive, and (subject to Section 7.01) shall be fully protected in relying upon, an Opinion of Counsel stating that the form and terms thereof have been established in conformity with the provisions of this Indenture.

The Trustee shall not be required to authenticate such Debentures if the issue of such Debentures pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Debentures and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.

SECTION 2.05. EXCHANGE OF DEBENTURES. (a) Debentures of any series may be exchanged upon presentation thereof at a Place of Payment, for other Debentures of such series of authorized denominations, and for a like aggregate principal amount, upon payment of a sum sufficient to cover any tax or other governmental charge in relation thereto, all as provided in this Section. In respect of any Debentures so surrendered for exchange, the Company shall execute, the Trustee shall authenticate and such office or agency shall make available for delivery in exchange therefor the Debenture or Debentures of the same series which the Debentureholder making the exchange shall be entitled to receive, bearing numbers not contemporaneously outstanding.

(b) The Company shall keep, or cause to be kept, at the Corporate Trust Office of the Trustee (the register maintained in such office and in any other office or agency of the Company in a Place of Payment is herein sometimes collectively referred to as the "Debenture Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall register the Debentures and the transfers of Debentures as in this Article provided and which at all reasonable times shall be open for inspection by the Trustee. The registrar for the purpose of registering Debentures and transfer of Debentures as herein provided shall be appointed by the Company (the "Debenture Registrar"). The initial Debenture Registrar shall be the Trustee.

Upon surrender for transfer of any Debenture at the office or agency of the Company in a Place of Payment, the Company shall execute and the Trustee shall authenticate and deliver, in the name of the transferee or transferees, one or more new Debentures of the same series as the Debenture presented, of any authorized denominations and of like tenor and aggregate principal amount.

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All Debentures presented or surrendered for exchange or registration of transfer, as provided in this Section, shall be accompanied (if so required by the Company or the Debenture Registrar) by a written instrument or instruments of transfer, in form satisfactory to the Company or the Debenture Registrar, duly executed by the registered holder or by his duly authorized attorney in writing.

(c) No service charge shall be made for any exchange or registration of transfer of Debentures, or issue of new Debentures in case of partial redemption of any series, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge in relation thereto, other than exchanges pursuant to Section 2.06, Section 3.03(b) and Section 9.04 not involving any transfer.

(d) The Company shall not be required (i) to issue, exchange or register the transfer of any Debentures during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of less than all the outstanding Debentures of the same series and ending at the close of business on the day of such mailing, nor (ii) to register the transfer of or exchange any Debentures of any series or portions thereof called for redemption.

The provisions of this Section 2.05 are, with respect to any Global Debenture, subject to Section 2.11 hereof.

SECTION 2.06. TEMPORARY DEBENTURES. Pending the preparation of definitive Debentures of any series, the Company may execute, and the Trustee shall authenticate and make available for delivery, temporary Debentures (printed, lithographed or typewritten) of any authorized denomination, and substantially in the form of the definitive Debentures in lieu of which they are issued, but with such omissions, insertions and variations as may be appropriate for temporary Debentures, all as may be determined by the Company. Every temporary Debenture of any series shall be executed by the Company and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Debentures of such series. Without unnecessary delay the Company will execute and will furnish definitive Debentures of such series and thereupon any or all temporary Debentures of such series may be surrendered in exchange therefor (without charge to the holders), at a Place of Payment, and upon receipt of a written order of the Company signed by its President or any Vice President and its Treasurer or any Assistant Treasurer, the Trustee shall authenticate and deliver in exchange for such temporary Debentures an equal aggregate principal amount of definitive Debentures of such series, unless the Company advises the Trustee to the effect that definitive Debentures need not be executed and furnished until further notice from the Company. Until so exchanged, the temporary Debentures of such series shall be entitled to the same benefits under this Indenture as definitive Debentures of such series authenticated and delivered hereunder.

SECTION 2.07. MUTILATED, DESTROYED, LOST OR STOLEN DEBENTURES. In case any temporary or definitive Debenture shall become mutilated or be destroyed, lost or stolen, the Company (subject to the next succeeding sentence) shall execute, and upon its written request the Trustee (subject as aforesaid) shall authenticate and make available for delivery, a new

Debenture of the same series bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Debenture, or in lieu of and in substitution for the Debenture so destroyed, lost or stolen. In every case the applicant for a substituted Debenture shall furnish to the Company and to the Trustee such security or indemnity as may be required by them to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company and to the Trustee evidence to their satisfaction of the destruction, loss or theft of the applicant's Debenture and of the ownership thereof. The Trustee may authenticate any such substituted Debenture and make available for delivery the same upon the written request or authorization of any officer of the Company. Upon the issuance of any substituted Debenture, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith. In case any Debenture which has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Company may,



instead of issuing a substitute Debenture, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Debenture) if the applicant for such payment shall furnish to the Company and to the Trustee such security or indemnity as they may require to save them harmless, and, in case of destruction, loss or theft, evidence to the satisfaction of the Company and the Trustee of the destruction, loss or theft of such Debenture and of the ownership thereof.

Every Debenture issued pursuant to the provisions of this Section in substitution for any Debenture which is mutilated, destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Debenture shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Debentures of the same series duly issued hereunder. All Debentures shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Debentures, and shall preclude (to the extent lawful) any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

SECTION 2.08. CANCELLATION OF SURRENDERED DEBENTURES. All Debentures surrendered for the purpose of payment, redemption, exchange or registration of transfer shall, if surrendered to the Company or any paying agent, be delivered to the Trustee for cancellation, or, if surrendered to the Trustee, shall be cancelled by it, and no Debentures shall be issued in lieu thereof except as expressly required or permitted by any of the provisions of this Indenture. On written request of the Company, the Trustee shall deliver to the Company cancelled Debentures held by the Trustee. If the Company shall otherwise acquire any of the Debentures, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Debentures unless and until the same are delivered to the Trustee for cancellation.

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SECTION 2.09. PROVISIONS OF INDENTURE AND DEBENTURES FOR SOLE BENEFIT OF PARTIES AND DEBENTUREHOLDERS. Nothing in this Indenture or in the Debentures, express or implied, shall give or be construed to give to any Person, other than the parties hereto and the holders of the Debentures, any legal or equitable right, remedy or claim under or in respect of this Indenture, or under any covenant, condition or provision herein contained; all such covenants, conditions and provisions being for the sole benefit of the parties hereto and of the holders of the Debentures.

SECTION 2.10. APPOINTMENT OF AUTHENTICATING AGENT. So long as any of the Debentures of any series remain outstanding there may be an Authenticating Agent for any or all such series of Debentures which the Trustee shall have the right to appoint. Said Authenticating Agent shall be authorized to act on behalf of the Trustee to authenticate Debentures of such series issued upon exchange, transfer or partial redemption thereof, and Debentures so authenticated shall be

entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. All references in this Indenture to the authentication of Debentures by the Trustee shall be deemed to include authentication by an Authenticating Agent for such series except for authentication upon original issuance or pursuant to Section 2.07 hereof. Each Authenticating Agent shall be acceptable to the Company and shall be a corporation which has a combined capital and surplus, as most recently reported or determined by it, sufficient under the laws of any jurisdiction under which it is organized or in which it is doing business to conduct a trust business, and which is otherwise authorized under such laws to conduct such business and is subject to supervision or examination by Federal or State authorities. If at any time any Authenticating Agent shall cease to be eligible in accordance with these provisions, it shall resign immediately.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time (and upon request by the Company shall) terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and to the Company. Upon resignation, termination or cessation of eligibility of any Authenticating Agent, the Trustee may appoint an eligible successor Authenticating Agent acceptable to the Company. Any successor Authenticating Agent, upon acceptance of its appointment hereunder, shall become vested with all the rights, powers and duties of its predecessor hereunder as if originally named as an Authenticating Agent pursuant hereto.

SECTION 2.11. GLOBAL DEBENTURES. (a) If the Company shall establish pursuant to Section 2.01 that the Debentures of a particular series are to be issued as one or more Global Debentures, then the Company shall execute and the Trustee shall, in accordance with Section 2.04, authenticate and deliver, one or more Global Debentures which (i) shall represent, and shall be denominated in an aggregate amount equal to the aggregate principal amount of, all of the Outstanding Debentures of such series, (ii) shall be registered in the name of the Depositary or its nominee, (iii) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary's instruction and (iv) shall bear, subject to Section

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2.01(12), a legend substantially to the following effect: "Except as otherwise provided in Section 2.11 of the Indenture, this Debenture may be transferred, in whole but not in part, only to another nominee of the Depositary or to a successor Depositary or to a nominee of such successor Depositary."

(b) Notwithstanding the provisions of Section 2.05, the Global Debenture of a series may be transferred, in whole but not in part and in the manner provided in Section 2.05, only to another nominee of the Depositary for such series, or to a successor Depositary for such series selected or approved by the Company or to a nominee of such successor Depositary.

(c) If at any time the Depositary for a series of Debentures notifies the Company that it is unwilling or unable to continue as Depositary for such series

or if at any time the Depositary for such series shall no longer be registered or in good standing under the Exchange Act, or other applicable statute or regulation and a successor Depositary for such series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such condition, as the case may be, this Section 2.11 shall no longer be applicable to the Debentures of such series and the Company will execute, and subject to Section 2.05, the Trustee will authenticate and make available for delivery Debentures of such series in definitive registered form without coupons, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the Global Debentures of such series in exchange for such Global Debentures. In addition, the Company may at any time determine that the Debentures of any series shall no longer be represented by one or more Global Debentures and that the provisions of this Section 2.11 shall no longer apply to the Debentures of such series. In such event the Company will execute and subject to Section 2.05, the Trustee, upon receipt of an Officers' Certificate evidencing such determination by the Company, will authenticate and deliver Debentures of such series in definitive registered form without coupons, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the Global Debentures of such series in exchange for such Global Debentures. Upon the exchange of the Global Debentures for such Debentures in definitive registered form without coupons, in authorized denominations, the Global Debentures shall be cancelled by the Trustee. Such Debentures in definitive registered form issued in exchange for the Global Debentures pursuant to this Section 2.11(c) shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Debentures to the Depositary for delivery to the persons in whose name such Debentures are so registered.

(d) Debentures distributed to holders of Global Certificates (as defined in the applicable Declaration of Trust) upon the dissolution of the applicable Trust shall be distributed in the form of one or more Global Debentures registered in the name of the Depositary or its nominee, and deposited with the Debenture Registrar, as custodian for the Depositary, or with such Depositary, for credit by the Depositary to the respective accounts of the beneficial owners of the Debentures represented thereby (or such other accounts as they may direct). Prior to the distribution of Debentures to holders of Global Certificates

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upon the dissolution of the applicable Trust, the Company shall designate the Depositary in writing to the Trustee. Debentures distributed to holders of Certificates (as defined in the applicable Declaration of Trust), other than Global Certificates, upon the dissolution of the applicable Trust shall not be issued in the form of a Global Debenture or any other form intended to facilitate book-entry trading in beneficial interests in such Debentures.

(e) The Depositary or its nominee, as the registered owner of a Global Debenture, shall be the holder of such Global Debenture for all purposes under this Indenture and the Debentures, and owners of beneficial interests in a Global Debenture shall hold such interests pursuant to the applicable procedures of the Depositary. Accordingly, any such owner's beneficial interest in a

Global Debenture shall be shown only on, and the transfer of such interest shall be effected only through, records maintained by the Depositary or its nominee or its participants. None of the Company, the Trustee or the Debenture Registrar shall have any liability in respect of any transfer effected by the Depositary.

(f) The rights of owners of beneficial interests in a Global Debenture shall be exercised only through the Depositary and shall be limited to those established by law and agreements between such owners and the Depositary and/or its participants.

SECTION 2.12. CUSIP NUMBERS. The Company in issuing the Debentures may use "CUSIP" numbers, and the Trustee shall use such CUSIP numbers in notices of redemption or exchange as a convenience to Debentureholders and no representation shall be made as to the correctness of such numbers either as printed on the Debentures or as contained in any notice of redemption or exchange.

### ARTICLE 3

#### REDEMPTION OF DEBENTURES AND SINKING FUND PROVISIONS

SECTION 3.01. REDEMPTION. The Company may redeem the Debentures of any series issued hereunder on and after the dates and in accordance with the terms established for such series pursuant to Section 2.01 hereof.

SECTION 3.02. NOTICE OF REDEMPTION. (a) In case the Company shall desire to exercise such right to redeem all or, as the case may be, a portion of the Debentures of any series in accordance with the right reserved so to do, it shall give notice of such redemption to the Trustee at least 45 days in advance of the date fixed for redemption. The Trustee shall then notify holders of the Debentures of such series who are to be redeemed by mailing, first class postage prepaid, by a notice of such redemption not less than 30 days and not more than 60 days before the date fixed for redemption of that series to such holders at their last addresses as they shall appear upon the Debenture Register. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the registered holder receives the notice. In any case, failure duly to give such notice

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to the holder of any Debenture of any series designated for redemption in whole or in part, or any defect in the notice, shall not affect the validity of the proceedings for the redemption of any other Debentures of such series or any other series. In the case of any redemption of Debentures prior to the expiration of any restriction on such redemption provided in the terms of such Debentures or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with any such restriction.

Each such notice of redemption shall identify the Debentures to be redeemed

(including CUSIP number) and shall specify: (i) the date fixed for redemption, (ii) the redemption price at which Debentures of that series are to be redeemed, (iii) the place or places where Debentures are to be surrendered for payment of the redemption price, (iv) that payment of the redemption price will be made upon presentation and surrender of such Debentures at such place or places, (v) that interest accrued to the date fixed for redemption will be paid as specified in said notice, (vi) that from and after said date interest will cease to accrue and (vii) that the redemption is for a sinking fund, if such is the case. If less than all the Debentures of a series are to be redeemed, the notice to the holders of Debentures of that series to be redeemed in whole or in part shall specify the particular Debentures to be so redeemed. In case any Debenture is to be redeemed in part only, the notice which relates to such Debenture shall state the portion of the principal amount thereof to be redeemed, and shall state that on and after the redemption date, upon surrender of such Debenture, a new Debenture or Debentures of such series in principal amount equal to the unredeemed portion thereof will be issued.

(b) In the event of a partial redemption of a series of Debentures, the Company shall give the Trustee at least 45 days' notice in advance of the date fixed for redemption as to the aggregate principal amount of Debentures of the series to be redeemed and the other information set forth in the immediately preceding paragraph, and thereupon the Trustee shall select, by lot or in such other manner as it shall deem appropriate and fair in its discretion and which may provide for the selection of a portion or portions (equal to \$25 or any integral multiple thereof) of the principal amount of such Debentures of a denomination larger than \$25, the Debentures to be redeemed and shall thereafter promptly notify the Company in writing of the numbers of the Debentures to be redeemed, in whole or in part. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Debentures shall relate, in the case of any Debenture redeemed or to be redeemed only in part, to the portion of the principal amount of such Debenture which has been or is to be redeemed. If the Company shall so direct, Debentures registered in the name of the Company, any Affiliate or any Subsidiary thereof shall not be included in the Debentures selected for redemption.

The Company may, if and whenever it shall so elect, by delivery of instructions signed on its behalf by its President or any Vice President, instruct the Trustee or any paying agent to call all or any part of the Debentures of a particular series for redemption and to give notice of redemption in the manner set forth in this Section, such notice to be in the name of the Company or its own name as the Trustee or such paying agent may deem advisable. In

any case in which notice of redemption is to be given by the Trustee or any such paying agent, the Company shall deliver or cause to be delivered to, or permit to remain with, the Trustee or such paying agent, as the case may be, such Debenture Register, transfer books or other records, or suitable copies or extracts therefrom, sufficient to enable the Trustee or such paying agent to give any notice by mail that may be required under the provisions of this Section.

SECTION 3.03. PAYMENT UPON REDEMPTION. (a) If the giving of notice of redemption shall have been completed as above provided and funds deposited as required, the Debentures or portions of Debentures of the series to be redeemed specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to, but excluding, the date fixed for redemption, and interest on such Debentures or portions of Debentures shall cease to accrue on and after the date fixed for redemption, unless the Company shall default in the payment of such redemption price and accrued interest with respect to any such Debenture or portion thereof. On presentation and surrender of such Debentures on or after the date fixed for redemption at the place of payment specified in the notice, said Debentures shall be paid and redeemed at the applicable redemption price for such series, together with interest accrued thereon to, but excluding, the date fixed for redemption (but if the date fixed for redemption is an interest payment date, the interest installment payable on such date shall be payable to the registered holder at the close of business on the applicable record date pursuant to Section 2.03).

(b) Upon presentation of any Debenture of such series which is to be redeemed in part only, the Company shall execute and the Trustee shall authenticate and the office or agency where the Debenture is presented shall make available for delivery to the holder thereof, at the expense of the Company, a new Debenture or Debentures of the same series, of authorized denominations in principal amount equal to the unredeemed portion of the Debenture so presented.

SECTION 3.04. SINKING FUNDS FOR DEBENTURES. The provisions of Sections 3.04, 3.05 and 3.06 shall be applicable to any sinking fund for the retirement of Debentures of a series, except as otherwise specified as contemplated by Section 2.01 for Debentures of such series.

The minimum amount of any sinking fund payment provided for by the terms of Debentures of any series is herein referred to as a "mandatory sinking fund payment", and any payment in excess of such minimum amount provided for by the terms of Debentures of any series is herein referred to as an "optional sinking fund payment". If provided for by the terms of Debentures for any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.05. Each sinking fund payment shall be applied to the redemption of Debentures of any series as provided for by the terms of Debentures of such series.

SECTION 3.05. SATISFACTION OF SINKING FUND PAYMENTS WITH DEBENTURES. The Company (i) may deliver outstanding Debentures of a series (other than any previously called for redemption) and (ii) may apply as a credit Debentures of a series which have been redeemed either at the election of the Company pursuant to the terms of such Debentures or through the application of permitted optional sinking fund payments pursuant to the terms of such Debentures, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Debentures of such series required to be made pursuant to the terms of such Debentures as provided for by the terms of such series; provided that such



Debentures have not been previously so credited. Such Debentures shall be received and credited for such purpose by the Trustee at the redemption price specified in such Debentures for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

SECTION 3.06. REDEMPTION OF DEBENTURES FOR SINKING FUND. Not less than 45 days prior to each sinking fund payment date for any series of Debentures, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms for that series, the portion thereof, if any, which is to be satisfied by delivering and crediting Debentures of that series pursuant to Section 3.05 and the basis for such credit and will, together with such Officers' Certificate, deliver to the Trustee any Debentures to be so delivered. Not less than 30 days before each such sinking fund payment date the Trustee shall select the Debentures to be redeemed upon such sinking fund payment date in the manner specified in Section 3.02 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.02. Such notice having been duly given, the redemption of such Debentures shall be made upon the terms and in the manner stated in Section 3.03.

#### ARTICLE 4

##### PARTICULAR COVENANTS OF THE COMPANY

The Company covenants and agrees for each series of the Debentures as follows:

SECTION 4.01. PAYMENT OF PRINCIPAL OF (AND PREMIUM, IF ANY) AND INTEREST ON DEBENTURES. The Company will duly and punctually pay or cause to be paid the principal of (and premium, if any) and interest on the Debentures of that series at the time and place and in the manner provided herein and established with respect to such Debentures.

SECTION 4.02. MAINTENANCE OF OFFICE OR AGENT FOR PAYMENT OF DEBENTURES, DESIGNATION OF OFFICE OR AGENCY FOR PAYMENT, REGISTRATION, TRANSFER AND EXCHANGE OF DEBENTURES. So long as any series of the Debentures remain outstanding, the Company agrees to maintain an office or agency in each Place of Payment, with respect to each such series and at such other location or locations as may be designated as provided in this Section 4.02, where (i) Debentures of that series may be presented for payment, (ii) Debentures of

that series may be presented as hereinabove authorized for registration of transfer and exchange, and (iii) notices and demands to or upon the Company in respect of the Debentures of that series and this Indenture may be given or served, such designation to continue with respect to such office or agency until the Company shall, by written notice signed by its President or a Vice President and delivered to the Trustee, designate some other office or agency



for such purposes or any of them. If at anytime the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, notices and demands.

SECTION 4.03. DUTIES OF PAYING AGENT; COMPANY AS PAYMENT AGENT; AND HOLDING SUMS IN TRUST. (a) If the Company shall appoint one or more paying agents for all or any series of the Debentures, other than the Trustee, the Company will cause each such paying agency to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section:

(1) that it will hold all sums held by it as such agent for the payment of the principal of (and premium, if any) or interest on the Debentures of that series (whether such sums have been paid to it by the Company or by any other obligor of such Debentures) in trust for the benefit of the persons entitled thereto:

(2) that it will give the Trustee written notice of any failure by the Company (or by any other obligor of such Debentures) to make any payment of the principal of (and premium, if any) or interest on the Debentures of that series when the same shall be due and payable;

(3) that it will, at any time during the continuance of any failure referred to in the preceding paragraph (a) (2) above, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such paying agent; and

(4) that it will perform all other duties of paying agent as set forth in this Indenture.

(b) If the Company shall act as its own paying agent with respect to any series of the Debentures, it will on or before each due date of the principal of (and premium, if any) or interest on Debentures of that series, set aside, segregate and hold in trust for the benefit of the persons entitled thereto a sum sufficient to pay such principal (and premium, if any) or interest so becoming due on Debentures of that series until such sums shall be paid to such persons or otherwise disposed of as herein provided and will promptly notify in writing the Trustee of such action, or any failure (by it or any other obligor on such Debentures) to take such action. Whenever the Company shall have one or more paying agents for any series of

Debentures, it will, prior to 11:00 a.m., New York City time on each due date of the principal of (and premium, if any) or interest on any Debentures of that series, deposit with the paying agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the persons entitled to such principal, premium or interest, and (unless such paying agent is the Trustee) the

Company will promptly notify the Trustee of its action or failure so to act.

(c) Anything in this Section to the contrary notwithstanding, (i) the agreement to hold sums in trust as provided in this Section is subject to the provisions of Section 11.05, and (ii) the Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or direct any paying agent to pay, to the Trustee all sums held in trust by the Company or such paying agent, such sums to be held by the Trustee upon the same terms and conditions as those upon which such sums were held by the Company or such paying agent; and, upon such payment by any paying agent to the Trustee, such paying agent shall be released from all further liability with respect to such money.

SECTION 4.04. APPOINTMENT TO FILL VACANCY IN OFFICE OF TRUSTEE. The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.10, a Trustee, so that there shall at all times be a Trustee hereunder.

## ARTICLE 5

### DEBENTUREHOLDERS LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE

SECTION 5.01. COMPANY TO FURNISH TRUSTEE INFORMATION AS TO NAMES AND ADDRESSES OF DEBENTUREHOLDERS. The Company will furnish or cause to be furnished to the Trustee (a) on each regular record date (as defined in Section 2.03) a list, in such form as the Trustee may reasonably require, of the names and addresses of the holders of each series of Debentures as of such regular record date, provided, that the Company shall not be obligated to furnish or cause to be furnished such list at any time that the list shall not differ in any respect from the most recent list furnished to the Trustee by the Company and (b) at such other times as the Trustee may request in writing within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished; provided, however, no such list need be furnished for any series for which the Trustee shall be the Debenture Registrar.

SECTION 5.02. TRUSTEE TO PRESERVE INFORMATION AS TO NAMES AND ADDRESSES OF DEBENTUREHOLDERS. (a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of Debentures contained in the most recent list furnished to it as provided in Section 5.01 and as to the names and addresses of holders of Debentures received by the Trustee in its capacity as Debenture Registrar (if acting in such capacity).

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(b) The Trustee may destroy any list furnished to it as provided in Section 5.01 upon receipt of a new list so furnished.

(c) In case three or more holders of Debentures of a series (hereinafter

referred to as "applicants") apply in writing to the Trustee, and furnish to the Trustee reasonable proof that each such applicant has owned a Debenture for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other holders of Debentures of such series or holders of all Debentures with respect to their rights under this Indenture or under such Debentures, and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall within five Business Days after the receipt of such application, at its election, either:

(1) afford to such applicants access to the information preserved at the time by the Trustee in accordance with the provisions of subsection (a) of this Section 5.02; or

(2) inform such applicants as to the approximate number of holders of Debentures of such series or of all Debentures, as the case may be, whose names and addresses appear in the information preserved at the time by the Trustee, in accordance with the provisions of subsection (a) of this Section 5.02, and as to the approximate cost of mailing to such Debentureholders the form of proxy or other communication, if any, specified in such application.

(d) If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each holder of such series or of all Debentures, as the case may be, whose name and address appears in the information preserved at the time by the Trustee in accordance with the provisions of subsection (a) of this Section 5.02, a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within five days after such tender, the Trustee shall mail to such applicants and file with the Securities and Exchange Commission (the "Commission"), together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the holders of Debentures of such series or of all Debentures, as the case may be, or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all such Debentureholders with reasonable promptness after the entry of such order and the renewal of

such tender; otherwise, the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(e) Each and every holder of the Debentures, by receiving and holding the

same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any paying agent nor any Debenture Registrar shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the holders of Debentures in accordance with the provisions of subsection (c) of this Section 5.02, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under said subsection (c).

SECTION 5.03. ANNUAL AND OTHER REPORTS TO BE FILED BY COMPANY WITH THE TRUSTEE. (a) The Company covenants and agrees to file with the Trustee, within 15 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act; or, if the Company is not required to file information, documents or reports pursuant to either of such sections, then to file with the Trustee and the Commission in accordance with the rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Exchange Act, in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

(b) The Company covenants and agrees to file with the Trustee and the Commission, in accordance with the rules and regulations prescribed from time to time by the Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture as may be required from time to time by such rules and regulations.

(c) The Company covenants and agrees to transmit by mail, first class postage prepaid, or reputable over-night delivery service which provides for evidence of receipt, to the Debentureholders, as their names and addresses appear upon the Debenture Register, within 30 days after the filing thereof with the Trustee, such summaries of any information, documents and reports required to be filed by the Company pursuant to subsections (a) and (b) of this Section as may be required by rules and regulations prescribed from time to time by the Commission.

(d) The Company covenants and agrees to furnish to the Trustee, on or before May 15 in each calendar year in which any of the Debentures are outstanding, or on or before such other day in each calendar year as the Company

and the Trustee may from time to time agree upon, a Certificate as to his or her knowledge of the Company's compliance with all conditions and covenants under this Indenture. For purposes of this subsection (d), such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture.

SECTION 5.04. TRUSTEE TO TRANSMIT ANNUAL REPORT TO DEBENTUREHOLDERS.

(a) The Trustee shall transmit to Debentureholders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant thereto. If required by Section 313(a) of the Trust Indenture Act, the Trustee shall, within 60 days after each May 15 following the date of this Indenture, commencing May 15, 2000, deliver to Debentureholders a brief report, dated as of such May 15, which complies with the provisions of such Section 313(a).

(b) The Trustee shall comply with Section 313(b) and 313(c) of the Trust Indenture Act.

(c) A copy of each such report shall, at the time of such transmission to Debentureholders, be filed by the Trustee with the Company, with each stock exchange upon which any Debentures are listed (if so listed) and also with the Commission. The Company agrees to notify the Trustee when any Debentures become listed on any stock exchange.

ARTICLE 6

REMEDIES OF THE TRUSTEE AND DEBENTUREHOLDERS ON EVENT OF DEFAULT

SECTION 6.01. EVENTS OF DEFAULT DEFINED. (a) Whenever used herein with respect to Debentures of a particular series, "Event of Default" means any one or more of the following events which has occurred and is continuing:

(1) default in the payment of any installment of interest upon any of the Debentures of that series, as and when the same shall become due and payable, and continuance of such default for a period of 90 days; provided, however, that a valid extension of an interest payment period by the Company, in accordance with the terms of Debentures of that series established pursuant to Section 2.01 hereof, shall not constitute a default in the payment of interest for this purpose;

(2) default (i) in the payment of the principal of (and premium, if any, on) any of the Debentures of that series as and when the same shall become due and payable whether at maturity, upon redemption, by declaring or otherwise, or (ii) in any payment required by any sinking or analogous fund established

with respect to that series, and in the case of this clause (ii) only, continuance of such default for a period of 90 days;

(3) failure on the part of the Company duly to observe or perform, in any material respect, any other of the covenants or agreements on the part of the Company with respect to that series contained in such Debentures or otherwise established with respect to that series of Debentures pursuant to Section 2.01 hereof or contained in this Indenture (other than a covenant or agreement which has been expressly included in this Indenture solely for the benefit of one or more series of Debentures other than such series) for a period of 90 days after the date on which written notice of such failure, requiring the same to be remedied and stating that such notice is a "Notice of Default" hereunder, shall have been given to the Company by the Trustee, by registered or certified mail, or to the Company and the Trustee by the holders of at least 25% in principal amount of the Debentures of that series at the time Outstanding;

(4) a decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Company as bankrupt or insolvent, or approving as properly filed a petition seeking liquidation or reorganization of the Company under the Federal Bankruptcy Code or any other similar applicable Federal or State law, and such decree or order shall have continued unvacated and unstayed for a period of 90 days; or an involuntary case shall be commenced under such Code in respect of the Company and shall continue undismissed for a period of 90 days or an order for relief in such case shall have been entered; or a decree or order of a court having jurisdiction in the premises shall have been entered for the appointment on the ground of insolvency or bankruptcy of a receiver or custodian or liquidator or trustee or assignee in bankruptcy or insolvency of the Company or of its property, or for the winding up or liquidation of its affairs, and such decree or order shall have remained in force unvacated and unstayed for a period of 90 days;

(5) the Company shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking liquidation or reorganization under the Federal Bankruptcy Code or any other similar applicable Federal or State law, or shall consent to the filing of any such petition, or shall consent to the appointment on the ground of insolvency or bankruptcy of a receiver or custodian or liquidator or trustee or assignee in bankruptcy or insolvency of it or of its property, or shall make an assignment for the benefit of creditors; or

(6) any other Event of Default provided with respect to Debentures of that series.

(b) In each and every such case, unless the principal of all the Debentures of that series shall have already become due and payable, either the Trustee or the holders of not less than 25% in aggregate principal amount of the Debentures of that series then Outstanding hereunder, by notice in writing to

the Company (and to the Trustee if given by such Debentureholders), may declare the principal of all the Debentures of that series to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything contained in this Indenture or in the Debentures of that series or established with respect to that series pursuant to Section 2.01 to the contrary notwithstanding. Payment of principal and interest on such Debentures shall remain subordinated to the extent provided in Article 14 notwithstanding that such amount shall become immediately due and payable as herein provided.

(c) SECTION 6.01(b), however, is subject to the condition that if, at any time after the principal of the Debentures of that series shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all the Debentures of that series and the principal of (and premium, if any, on) any and all Debentures of that series which shall have become due otherwise than by acceleration (with interest upon such principal and premium, if any, and, to the extent that such payment is enforceable under applicable law, upon overdue installments of interest, at the rate per annum expressed in the Debentures of that series to the date of such payment or deposit) and the amount payable to the Trustee under Section 7.06, and any and all defaults under the Indenture, other than the nonpayment of principal on Debentures of that series which shall not have become due by their terms, shall have been remedied or waived as provided in Section 6.06 then and in every such case the holders of a majority in aggregate principal amount of the Debentures of that series then outstanding (subject to, in the case of any series of Debentures held as trust assets of a Trust and with respect to which a Security Exchange has not theretofore occurred, such consent of the holders of the Preferred Securities and the Common Securities of such Trust as may be required under the Declaration of Trust of such Trust), by written notice to the Company and to the Trustee, may rescind and annul such declaration and its consequences with respect to that series of Debentures; but no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair any right consequent thereon.

(d) In case the Trustee shall have proceeded to enforce any right with respect to Debentures of that series under this Indenture and such proceedings shall have been discontinued or abandoned because of such rescission or annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company and the Trustee shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Company and the Trustee shall continue as though no such proceedings had been taken.

(e) If, prior to a Security Exchange with respect to the Debentures of any series, a Default with respect to the Debentures of such series shall have occurred, the Company



expressly acknowledges that under the circumstances set forth in the applicable Declaration of Trust, any holder of Preferred Securities of the applicable Trust may, to the fullest extent permitted by law, enforce directly against the Company the applicable Property Trustee's rights hereunder. In furtherance of the foregoing and for the avoidance of any doubt, the Company acknowledges that, under the circumstances described in the applicable Declaration of Trust, any such holder of Preferred Securities, in its own name, in the name of the applicable Trust or in the name of the holders of the Preferred Securities issued by such Trust, may institute or cause to be instituted a proceeding, including, without limitation, any suit in equity, an action at law or other judicial or administrative proceeding, to enforce the applicable Property Trustee's rights hereunder directly against the Company as issuer of the applicable series of Debentures, and may prosecute such proceeding to judgment or final decree, and enforce the same against the Company.

SECTION 6.02. COVENANT OF COMPANY TO PAY TO TRUSTEE WHOLE AMOUNT DUE ON DEBENTURES ON DEFAULT IN PAYMENT OF INTEREST OR PRINCIPAL (AND PREMIUMS, IF ANY). (a) The Company covenants that (1) in case default shall be made in (A) the payment of any installment of interest on any of the Debentures of a series and such default shall have continued for a period of 30 days, or (B) any payment required by any sinking or analogous fund established with respect to that series as and when the same shall have become due and payable, and such default shall have continued for a period of 90 days, or (2) in case default shall be made in the payment of the principal of (or premium, if any, on) any of the Debentures of a series when the same shall have become due and payable, whether upon maturity of the Debentures of a series or upon redemption or upon declaration or otherwise, then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the Debentures of that series, the whole amount that then shall have become due and payable on all such Debentures for principal (and premium, if any) or interest, or both, as the case may be, with interest upon the overdue principal (and premium, if any) and (to the extent that payment of such interest is enforceable under applicable law and without duplication of any other amounts paid by the Company or the applicable Trust in respect thereof) upon overdue installments of interest at the rate per annum expressed in the Debentures of that series; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, and the amount payable to the Trustee under Section 7.06.

(b) In case the Company shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon the Debentures of that series and collect in the manner provided by law out of the property of the Company or other obligor upon the Debentures of that series wherever situated the moneys adjudged or decreed to be payable.

(c) In case of any receivership, insolvency, liquidation, bankruptcy, reorganization, readjustment, arrangement, composition or other judicial proceedings affecting the Company,

any other obligor on such Debentures, or the creditors or property of either, the Trustee shall have the power to intervene in such proceedings and take any action therein that may be permitted by the court and shall (except as may be otherwise provided by law) be entitled to file such proofs of claim and other papers and documents as may be necessary or advisable in order to have the claims of the Trustee and of the holders of Debentures of such series allowed for the entire amount due and payable by the Company or such other obligor under the Indenture at the date of institution of such proceedings and for any additional amount which may become due and payable by the Company or such other obligor after such date, and to collect and receive any moneys or other property payable or deliverable on any such claim, and to distribute the same after the deduction of the amount payable to the Trustee under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of Debentures of such series to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to such Debentureholders, to pay to the Trustee any amount due it under Section 7.06.

(d) All rights of action and of asserting claims under this Indenture, or under any of the terms established with respect to Debentures of that series, may be enforced by the Trustee without the possession of any of such Debentures, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for payment to the Trustee of any amounts due under Section 7.06, be for the ratable benefit of the holders of the Debentures of such series.

In case of an Event of Default hereunder, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Debentureholder any plan of reorganization, arrangement, adjustment or composition affecting the Debentures of that series or the rights of any holder thereof or to authorize the Trustee to vote in respect of the claim of any Debentureholder in any such proceeding.

SECTION 6.03. APPLICATION OF MONEYS COLLECTED BY TRUSTEE. Any moneys collected by the Trustee pursuant to this Article with respect to a particular series of Debentures shall be applied in the order following, at the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal (or premium, if any) or interest, upon presentation of the

several Debentures of that series, and stamping thereon the payment, if only partially paid, and upon surrender thereof if fully paid:

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FIRST: To the payment of costs and expenses of collection and of all amounts payable to the Trustee under Section 7.06;

SECOND: To the payment of all Senior Debt of the Company if and to the extent required by Article 14;

THIRD: To the payment of the amounts then due and unpaid upon Debentures of such series for principal (and premium, if any) and interest, in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Debentures for principal (and premium, if any) and interest, respectively; and

FOURTH: The balance, if any, to the Person or Persons entitled thereto.

SECTION 6.04. LIMITATION ON SUITS BY HOLDERS OF DEBENTURES. No holder of any Debenture of any series shall have any right by virtue or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless (i) such holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof with respect to Debentures of such series specifying such Event of Default, as hereinbefore provided, (ii) the holders of not less than 25% in aggregate principal amount of the Debentures of such series then outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as trustee hereunder, (iii) shall have offered to the Trustee indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, (iv) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity, shall have failed to institute any such action, suit or proceeding and (v) during such 60 day period, the holders of a majority in principal amount of the Debentures of that series do not give the Trustee a direction inconsistent with the request; it being understood and intended, and being expressly covenanted by the taker and holder of every Debenture of such series with every other such taker and holder and Trustee, that no one or more holders of Debentures of such series shall have any right in any manner whatsoever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of the holders of any other of such Debentures, or to obtain or seek to obtain priority over or preference to any other such holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all holders of Debentures of such series. For the protection and enforcement of the provisions of this Section, each and every Debentureholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Notwithstanding any other provisions of this Indenture, however, the right of any holder of any Debenture to receive payment of the principal of (and

premium, if any) and interest on such Debenture, as therein provided, on or after the respective due dates expressed

in such Debenture (or in the case of redemption, on the redemption date), or to institute suit for the enforcement of any such payment on or after such respective dates or redemption date, shall not be impaired or affected without the consent of such holder.

SECTION 6.05. REMEDIES CUMULATIVE; DELAY OR OMISSION IN EXERCISE OF RIGHTS NOT WAIVER OF DEFAULT.

(a) All powers and remedies given by this Article 6 to the Trustee or to the Debentureholders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any others thereof or of any other powers and remedies available to the Trustee or the holders of the Debentures, by judicial proceedings or otherwise, to enforce performance or observance of the covenants and agreements contained in this Indenture or otherwise established with respect to such Debentures.

(b) No delay or omission of the Trustee or of any holder of any of the Debentures to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein; and, subject to the provisions of Section 6.04, every power and remedy given by this Article or by law to the Trustee or to the Debentureholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Debentureholders.

SECTION 6.06. RIGHTS OF HOLDERS OF MAJORITY IN PRINCIPAL AMOUNT OF DEBENTURES TO DIRECT TRUSTEE AND TO WAIVE DEFAULTS. The holders of a majority in aggregate principal amount of the Debentures of any series at the time Outstanding, determined in accordance with Section 8.04 (with, in the case of any series of Debentures held as trust assets of a Trust and with respect to which a Security Exchange has not theretofore occurred, such consent of holders of the Preferred Securities and the Common Securities of such Trust as may be required under the Declaration of Trust of such Trust), shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to such series; provided, however, that such direction shall not be in conflict with any rule of law or with this Indenture or unduly prejudicial to the rights of holders of Debentures of any other series at the time Outstanding determined in accordance with Section 8.04 not parties thereto. Subject to the provisions of Section 7.01, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer or Officers of the Trustee, determine that the proceeding so directed would involve the Trustee in personal liability. The holders of a majority in aggregate principal amount of the Debentures of any series at the time Outstanding affected thereby, determined in accordance with section 8.04 (with, in the case of any series of Debentures held as trust assets of a Trust and with respect to which a Security Exchange has not theretofore occurred, such

consent of holders of the Preferred Securities and the Common Securities of such Trust as may be required under the Declaration of Trust of such Trust), may on behalf of the holders of all of the Debentures of such series waive any past default in the performance of any of the covenants contained

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herein or established pursuant to Section 2.01 with respect to such series and its consequences, except a default in the payment of the principal of, or premium, if any, or interest on, any of the Debentures of that series as and when the same shall become due by the terms of such Debentures otherwise than by acceleration (unless such default has been cured and a sum sufficient to pay all matured installments of interest and principal and any premium has been deposited with the Trustee (in accordance with Section 6.01(c)), or a call for redemption of Debentures of that series. Upon any such waiver, the default covered thereby shall be deemed to be cured for all purposes of this Indenture and the Company, the Trustee and the holders of the Debentures of such series shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 6.07. TRUSTEE TO GIVE NOTICE OF DEFAULTS KNOWN TO IT, BUT MAY WITHHOLD IN CERTAIN CIRCUMSTANCES. The Trustee shall, within 90 days after the occurrence of a default with respect to a particular series, transmit by mail, first class postage prepaid, to the holders of Debentures of that series, as their names and addresses appear upon the Debenture Register, notice of all defaults with respect to that series known to the Trustee, unless such defaults shall have been cured before the giving of such notice (the term "defaults" for the purposes of this Section being hereby defined to be the events specified in subsections (1), (2), (3), (4) and (5) of Section 6.01(a), not including any periods of grace provided for therein and irrespective of the giving of notice provided for by subsection (3) of Section 6.01(a)); provided, that, except in the case of default in the payment of the principal of (or premium, if any) or interest on any of the Debentures of that series or in the payment of any sinking fund installment established with respect to that series, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors and/or Responsible Officers, of the Trustee in good faith determine that the withholding of such notice is in the interests of the holders of Debentures of that series; provided further, that in the case of any default of the character specified in Section 6.01(a)(3) with respect to Debentures of such series no such notice to the holders of the Debentures of that series shall be given until at least 30 days after the occurrence thereof.

The Trustee shall not be deemed to have knowledge of any default, except (i) a default under subsection (a)(1) or (a)(2) of Section 6.01 as long as the Trustee is acting as paying agent for such series of Debentures or (ii) any default as to which a Responsible Officer of the Trustee shall have received written notice.

SECTION 6.08. REQUIREMENTS OF AN UNDERTAKING TO PAY COSTS IN CERTAIN SUITS UNDER INDENTURE OR AGAINST TRUSTEE. All parties to this Indenture agree, and

each holder of any Debentures by his or her acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and

good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Debentureholder, or group of Debentureholders, holding more than 10% in aggregate principal amount of the outstanding Debentures of any series, or to any suit instituted by any Debentureholder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Debenture of such series, on or after the respective due dates expressed in such Debenture or established pursuant to this Indenture.

ARTICLE 7  
Concerning the Trustee

Section 7.01. UPON EVENT OF DEFAULT OCCURRING AND CONTINUING, TRUSTEE SHALL EXERCISE POWERS VESTED IN IT, AND USE SAME DEGREE OF CARE AND SKILL IN THEIR EXERCISE, AS PRUDENT INDIVIDUAL WOULD USE. (a) The Trustee, prior to the occurrence of an Event of Default with respect to Debentures of a series and after the curing of all Events of Default with respect to Debentures of that series which may have occurred, shall undertake to perform with respect to Debentures of such series such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants shall be read into this Indenture against the Trustee. In case an Event of Default with respect to Debentures of a series has occurred (which has not been cured or waived), the Trustee shall exercise with respect to Debentures of that series such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) prior to the occurrence of an Event of Default with respect to Debentures of a series and after the curing or waiving of all such Events of Default with respect to that series which may have occurred:

(i) the duties and obligations of the Trustee shall with respect to Debentures of such series be determined solely by the express provisions of this Indenture and the Trust Indenture Act, and the Trustee shall not be liable with



respect to Debentures of such series except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

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(ii) in the absence of bad faith on the part of the Trustee, the Trustee may with respect to Debentures of such series conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Debentures of any series at the time outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture with respect to the Debentures of that series;

(4) none of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Indenture or adequate indemnity against such risk is not reasonably assured to it; and

(5) whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article 7.

SECTION 7.02. CERTAIN RIGHTS OF THE TRUSTEE. Except as otherwise provided in Section 7.01:

(a) The Trustee may conclusively rely and shall be protected in



acting or refraining from acting upon any resolution, certificate, statement,

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instrument, opinion, report, notice, request, consent, order, approval, bond, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by a Board Resolution or an instrument signed in the name of the Company by the President or any Vice President and by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer (unless other evidence in respect thereof is specifically prescribed herein);

(c) The Trustee may consult with counsel of its selection and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted hereunder in good faith and in reliance thereon;

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Debentureholders, pursuant to the provisions of this Indenture, unless such Debentureholders shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which may be incurred therein or thereby; nothing herein contained shall, however, relieve the Trustee of the obligation, upon the occurrence of an Event of Default with respect to a series of the Debentures (which has not been cured or waived) to exercise with respect to Debentures of that series such of the rights and powers vested in it by this Indenture, and to use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs;

(e) The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, security, or other papers or documents, unless requested in writing so to do by the holders of not less than a majority in principal amount of the outstanding Debentures of the particular series affected thereby (determined as provided in Section 8.04); PROVIDED, HOWEVER, that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require

costs, expenses or liabilities as a condition to so proceeding. The reasonable expense of every such examination shall be paid by the Company or, if paid by the Trustee, shall be repaid by the Company upon demand;

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder; and

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

SECTION 7.03. TRUSTEE NOT LIABLE FOR RECITALS IN INDENTURE OR IN DEBENTURES. (a) The recitals contained herein and in the Debentures (other than the Certificate of Authentication on the Debentures) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same.

(b) The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Debentures.

(c) The Trustee shall not be accountable for the use or application by the Company of any of the Debentures or of the proceeds of such Debentures, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Indenture or established pursuant to Section 2.01, or for the use or application of any moneys received by any paying agent other than the Trustee.

SECTION 7.04. TRUSTEE, PAYING AGENT OR DEBENTURE REGISTRAR MAY OWN DEBENTURES. The Trustee or any paying agent or Debenture Registrar, in its individual or any other capacity, may become the owner or pledgee of Debentures and, subject to Sections 7.08 and 7.13, may otherwise deal with the Company with the same rights it would have if it were not Trustee, paying agent or Debenture Registrar.

SECTION 7.05. MONEYS RECEIVED BY TRUSTEE TO BE HELD IN TRUST WITHOUT INTEREST. Subject to the provisions of Section 11.05, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree in writing to pay thereon.

SECTION 7.06. TRUSTEE ENTITLED TO COMPENSATION, REIMBURSEMENT AND INDEMNITY. (a) The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, such compensation as the Company and the Trustee shall from time to time agree in writing (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) for all services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties hereunder of the Trustee, and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of this Indenture (including the reasonable compensation and the reasonable expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Company also covenants to indemnify each of the Trustee and its officers, agents, directors and employees for, and to hold them harmless against, any loss, liability or expense including taxes (other than taxes based upon, measured by or determined by the income of the Trustee) incurred without negligence or bad faith on the part of the Trustee and arising out of or in connection with the acceptance or administration of this trust, including the reasonable costs and expenses of defending itself against any claim of liability in the premises. The provisions of this Section 7.06 shall survive the termination of this Indenture and resignation or removal of the Trustee.

(b) The obligations of the Company under this Section to compensate and indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder. Such additional indebtedness shall be secured by a lien prior to that of the Debentures upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the holders of particular Debentures.

SECTION 7.07. RIGHT OF TRUSTEE TO RELY ON CERTIFICATE OF OFFICERS OF COMPANY WHERE NO OTHER EVIDENCE SPECIFICALLY PRESCRIBED. Except as otherwise provided in Sections 7.01 and 7.02, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to take any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee and such certificate, in the absence of negligence or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Indenture upon the faith thereof.

SECTION 7.08. DISQUALIFICATION; CONFLICTING INTERESTS. If the Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee and the Company shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act. Nothing herein shall prevent the Trustee from filing with

the Commission the application referred to in the second to last paragraph of said Section 310(b).

SECTION 7.09. REQUIREMENTS FOR ELIGIBILITY OF TRUSTEE. There shall at all times be a Trustee with respect to the Debentures issued hereunder which shall at all times be a corporation or banking association organized and doing business under the laws of the United States of America or any state or territory thereof or of the District of Columbia, or a corporation or other Person permitted to act as trustee by the Commission, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least 50 million U.S. dollars, and subject to supervision or examination by Federal, State, territorial, or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Company may not, nor may any person directly or indirectly controlling, controlled by, or under common control with the Company, serve as Trustee. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 7.10.

SECTION 7.10. RESIGNATION OF TRUSTEE AND APPOINTMENT OF SUCCESSOR.

(a) The Trustee or any successor hereafter appointed, may at any time resign with respect to the Debentures of one or more series by giving written notice thereof to the Company and by transmitting notice of resignation by mail, first class postage prepaid, to the Debentureholders of such series, as their names and addresses appear upon the Debenture Register. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee with respect to Debentures of such series by written instrument, in duplicate, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 60 days after the mailing of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee with respect to Debentures of such series, or any Debentureholder of that series who has been a bona fide holder of a Debenture or Debentures for at least six months may, subject to the provisions of Section 6.08, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(1) the Trustee shall fail to comply with the provisions of Section 7.08 after written request therefor by the Company or by any Debentureholder who has

been a bona fide holder of a Debenture or Debentures for at least

six months; or

(2) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.09 and shall fail to resign after written request therefor by the Company or by any such Debentureholder; or

(3) the Trustee shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, the Company may remove the Trustee with respect to all Debentures and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 30 days after the mailing of such notice of removal, the Trustee so removed may petition any court of competent jurisdiction for the appointment of a successor trustee with respect to Debentures of such series, or any Debentureholder of that series who has been a bona fide holder of a Debenture or Debentures for at least six months may, subject to the provisions of Section 6.08, on behalf of himself and all others similarly situated, petition any such court for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The holders of a majority in aggregate principal amount of the Debentures of any series at the time outstanding may at any time remove the Trustee with respect to such series and appoint a successor trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee with respect to the Debentures of a series pursuant to any of the provisions of this Section shall become effective upon acceptance of appointment by the successor trustee as provided in Section 7.11.

(e) Any successor trustee appointed pursuant to this Section may be appointed with respect to the Debentures of one or more series or all of such series, and at any time there shall be only one Trustee with respect to the Debentures of any particular series.

#### SECTION 7.11. ACCEPTANCE BY SUCCESSOR TO TRUSTEE.

(a) In case of the appointment hereunder of a successor trustee with respect to all Debentures, every such successor trustee so appointed shall execute, acknowledge and

deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights,

powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor trustee all the rights, powers, and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor trustee with respect to the Debentures of one or more (but not all) series, the Company, the retiring Trustee and each successor trustee with respect to the Debentures of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor trustee shall accept such appointment and which shall (1) contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debentures of that or those series to which the appointment of such successor trustee relates, (2) contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debentures of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust, that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee and that no Trustee shall be responsible for any act or failure to act on the part of any other Trustee hereunder; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, such retiring Trustee shall with respect to the Debentures of that or those series to which the appointment of such successor trustee relates have no further responsibility for the exercise of rights and powers or for the performance of the duties and obligations vested in the Trustee under this Indenture, and each such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debentures of that or those series to which the appointment of such successor trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor trustee, to the extent contemplated by such supplemental indenture, the property and money held by such retiring Trustee hereunder with respect to the Debentures of that or those series to which the appointment of such successor trustee relates.

(c) Upon request of any such successor trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor trustee all such rights, power and trusts referred to in paragraph (a) or (b) of this Section 7.11, as the case may be.

(d) No successor trustee shall accept its appointment unless at the time of such acceptance such successor trustee shall be qualified and eligible under

this Article.

(e) Upon acceptance of appointment by a successor trustee as provided in this Section 7.11, the successor trustee shall transmit notice of the succession of such trustee hereunder by mail, first class postage prepaid, to the Debentureholders, as their names and addresses appear upon the Debenture Register.

SECTION 7.12. SUCCESSOR TO TRUSTEE BY MERGER, CONSOLIDATION OR SUCCESSION TO BUSINESS. Any corporation or banking association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case any Debentures shall have been authenticated, but not made available for delivery, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and make available for delivery the Debentures so authenticated with the same effect as if such successor Trustee had itself authenticated such Debentures.

SECTION 7.13. PREFERENTIAL COLLECTION OF CLAIMS AGAINST THE COMPANY. The Trustee shall comply with Section 311(a) of the Trust Indenture Act, excluding any creditor relationship described in Section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent included therein as though such resignation or removal, as the case may be, had not occurred.

## ARTICLE 8 Concerning the Debentures

SECTION 8.01. EVIDENCE OF ACTION BY DEBENTUREHOLDERS. Whenever in this Indenture it is provided that the holders of a majority or specified percentage in aggregate principal amount of the Debentures of a particular series may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such majority or specified percentage of that series have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by such holders of Debentures of that series in person or by agent or proxy appointed in writing.

If the Company shall solicit from the Debentureholders of any series any request, demand, authorization, direction, notice, consent, waiver or other action, the Company may, at its option, as evidenced by an Officers' Certificate, fix in advance a record date for such series for the determination of Debentureholders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other action, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand,



authorization, direction, notice, consent, waiver or other action may be given before or after the record date, but only the Debentureholders of record at the close of business on the record date shall be deemed to be Debentureholders for the purposes of determining whether Debentureholders of the requisite proportion of Outstanding Debentures of that series have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other action, and for that purpose the Outstanding Debentures of that series shall be computed as of the record date; provided that no such authorization, agreement or consent by such Debentureholders on the record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

SECTION 8.02. PROOF OF EXECUTION OF INSTRUMENTS AND OF HOLDING OF DEBENTURES. Subject to the provisions of Sections 7.01 and 7.02, proof of the execution of any instrument by a Debentureholder (such proof will not require notarization) or his agent or proxy and proof of the holding by any person of any of the Debentures shall be sufficient if made in the following manner;

(a) The fact and date of the execution by any such person of any instrument may be proved in any reasonable manner acceptable to the Trustee.

(b) The ownership of Debentures shall be proved by the Debenture Register of such Debentures or by a certificate of the Debenture Registrar thereof.

(c) The Trustee may require such additional proof of any matter referred to in this Section as it shall deem necessary.

SECTION 8.03. WHO MAY BE DEEMED OWNERS OF DEBENTURES. Prior to the due presentment for registration of transfer of any Debenture, the Company, the Trustee, any paying agent and any Debenture Registrar may deem and treat the person in whose name such Debenture shall be registered in the Debenture Register as the absolute owner of such Debenture (whether or not such Debenture shall be overdue and notwithstanding any notice of ownership or writing thereon made by anyone other than the Debenture Registrar) for the purpose of receiving payment of or on account of the principal of, premium, if any, and (subject to Section 2.03) interest on such Debenture and for all other purposes; and neither the Company nor the Trustee nor any paying agent nor any Debenture Registrar shall be affected by any notice to the contrary.

SECTION 8.04. DEBENTURES OWNED BY THE COMPANY OR CONTROLLED OR CONTROLLING COMPANIES DISREGARDED FOR CERTAIN PURPOSES. In determining whether the holders of the requisite aggregate principal amount of Debentures of a particular series have concurred in any direction, consent or waiver under this Indenture, Debentures of that series which are owned by the Company or any other obligor on the Debentures of that series or by any Subsidiary of the Company or of such other obligor on the Debentures of that series shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on

any such direction, consent or waiver, only Debentures of such series which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Debentures so owned which have been pledged in good faith may be regarded as outstanding for the purposes of this Section, if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right so to act with respect to such Debentures and that the pledgee is not a person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any such other obligor. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

SECTION 8.05. INSTRUMENTS EXECUTED BY DEBENTUREHOLDERS BIND FUTURE HOLDERS. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the majority or percentage in aggregate principal amount of the Debentures of a particular series specified in this Indenture in connection with such action, any holder of a Debenture of that series which is shown by the evidence to be included in the Debentures the holders of which have consented to such action may, by filing written notice with the Trustee, and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Debenture. Except as aforesaid any such action taken by the holder of any Debenture shall be conclusive and binding upon such holder and upon all future holders and owners of such Debenture, and of any Debenture issued in exchange therefor, on registration of transfer thereof or in place thereof, irrespective of whether or not any notation in regard thereto is made upon such Debenture. Any action taken by the holders of the majority or percentage in aggregate principal amount of the Debentures of a particular series specified in this Indenture in connection with such action shall be conclusively binding upon the Company, the Trustee and the holders of all the Debentures of that series.

## ARTICLE 9 SUPPLEMENTAL INDENTURES

SECTION 9.01. PURPOSES FOR WHICH SUPPLEMENTAL INDENTURE MAY BE ENTERED INTO WITHOUT CONSENT OF DEBENTUREHOLDERS. In addition to any supplemental indenture otherwise authorized by this Indenture, the Company and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the

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provisions of the Trust Indenture Act as then in effect), without the consent of the Debentureholders, for one or more of the following purposes:

(a) to evidence the succession of another corporation or other entity to the Company, and the assumption by any such successor of the obligations of the Company contained herein or otherwise established with respect to the Debentures;

(b) to add further covenants, restrictions, conditions or provisions for the protection of the holders of the Debentures of all or any series as the Board of Directors and the Trustee shall consider to be for the protection of the holders of Debentures of all or any series, and to make the occurrence, or the occurrence and continuance, of a

default in any of such additional covenants, restrictions, conditions or provisions a default or an Event of Default with respect to such series permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, however, that in respect of any such additional covenant, restriction, condition or provision such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such default or may limit the remedies available to the Trustee upon such default or may limit the right of the holders of a majority in aggregate principal amount of the Debentures of such series to waive such default;

(c) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under this Indenture as shall not be inconsistent with the provisions of this Indenture and shall not materially adversely affect the interests of the holders of the Debentures of any series;

(d) to add to, change or eliminate any of the provisions of this Indenture, provided that any such addition, change or elimination shall become effective only when there is no Debenture outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision;

(e) to provide for the issuance under this Indenture of Debentures in coupon form (including Debentures registrable as to principal only) and to provide for exchangeability of such Debentures with the Debentures issued hereunder in fully registered form and to make all appropriate changes for such purposes;

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(f) to evidence and provide for the acceptance of appointment hereunder by a successor trustee with respect to the Debentures;

(g) to qualify or maintain qualification of this Indenture under the Trust Indenture Act;

(h) to establish the form or terms of Debentures of any series as permitted by Section 2.01; or

(i) to make any addition, change or elimination of any provision of this Indenture that does not adversely affect the rights of any Debentureholder in any material respect.

The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be obligated to, but may in its discretion, enter into any such

supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed by the Company and the Trustee without the consent of the holders of any of the Debentures at the time outstanding, notwithstanding any of the provisions of Section 9.02.

SECTION 9.02. MODIFICATION OF INDENTURE WITH CONSENT OF DEBENTUREHOLDERS. With the consent (evidenced as provided in Section 8.01) of the holders of not less than a majority in aggregate principal amount of the Debentures of each series affected by such supplemental indenture or indentures at the time outstanding (and, in the case of any series of Debentures held as trust assets of a Trust and with respect to which a Security Exchange has not theretofore occurred, such consent of holders of the Preferred Securities and the Common Securities of such Trust as may be required under the Declaration of Trust of such Trust), the Company and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as then in effect) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the holders of the Debentures of such series under this Indenture; provided, however, that no such supplemental indenture shall (i) extend the fixed maturity of any Debentures of any series, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof, without the consent of the holder of each Debenture so affected or (ii) reduce the aforesaid percentage of Debentures, the holders of which are required to consent to any such supplemental indenture, without the consent of the holders of each Debenture (and, in the case of any series of Debentures held as trust assets of a Trust and with respect to which a Security Exchange has not theretofore occurred, such consent of the

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holders of the Preferred Securities and the Common Securities of such Trust as may be required under the Declaration of Trust of such Trust) then outstanding and affected thereby.

Upon the request of the Company, and upon the filing with the Trustee of evidence of the consent of Debentureholders (and, in the case of any series of Debentures held as trust assets of a Trust and with respect to which a Security Exchange has not theretofore occurred, such consent of holders of the Preferred Securities and the Common Securities of such Trust as may be required under the Declaration of Trust of such Trust) required to consent thereto as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion but shall not be obligated to enter into such supplemental indenture.

It shall not be necessary for the consent of the Debentureholders of any series affected thereby under this Section to approve the particular form of

any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section, the Trustee shall transmit by mail, first class postage prepaid, a notice, setting forth in general terms the substance of such supplemental indenture, to the Debentureholders of all series affected thereby as their names and addresses appear upon the Debenture Register. Any failure of the Trustee to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

SECTION 9.03. EFFECT OF SUPPLEMENTAL INDENTURES. Upon the execution of any supplemental indenture pursuant to the provisions of this Article or of Section 10.01, this Indenture shall, with respect to such series, be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the holders of Debentures of the series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 9.04. DEBENTURES MAY BEAR NOTATION OF CHANGES BY SUPPLEMENTAL INDENTURES. Debentures of any series, affected by a supplemental indenture, authenticated and delivered after the execution of such supplemental indenture pursuant to the provisions of this Article or of Section 10.01, may bear a notation in form approved by the Company, provided such form meets the requirements of any exchange upon which such series may be listed or traded, as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Debentures of that series so modified as to conform, in the opinion of the Board of Directors, to any modification of this Indenture contained in any such

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supplemental indenture may be prepared by the Company, authenticated by the Trustee and delivered in exchange for the Debentures of that series then outstanding.

SECTION 9.05. OPINION OF COUNSEL. The Trustee, subject to the provisions of Sections 7.01 and 7.02, may receive an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant hereto complies with the requirements of this Article 9.

## ARTICLE 10 CONSOLIDATION, MERGER, SALE OR CONVEYANCE

SECTION 10.01. COMPANY MAY CONSOLIDATE, ETC. ON CERTAIN TERMS. The Company shall not consolidate with or merge into any other Person or convey, transfer or lease its properties and assets substantially as an entirety to any other Person, and the Company shall not permit any other Person to consolidate with or merge into the Company, unless:

(a) either the Company shall be the continuing corporation, or the corporation (if other than the Company) formed by such consolidation or into which the Company is merged or to which the properties and assets of the Company substantially as an entity are transferred or leased shall be a corporation, limited liability company, partnership or trust organized and existing under the laws of the United States of America or any state thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Company under the Debentures and this Indenture; and

(b) immediately after giving effect to such transaction no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have occurred and be continuing.

SECTION 10.02. SUCCESSOR CORPORATION SUBSTITUTED. The successor corporation formed by such consolidation or into which the Company is merged or to which such transfer or lease is made shall succeed to and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor corporation had been named as the Company herein, and thereafter (except in the case of a lease to another Person) the predecessor corporation shall be relieved of all obligations and covenants under the Indenture and the Debentures and, in the event of such conveyance or transfer, any such predecessor corporation may be dissolved and liquidated.

SECTION 10.03. OPINION OF COUNSEL. The Trustee, subject to the provisions of Sections 7.01 and 7.02, may receive an Opinion of Counsel as conclusive evidence that any

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such consolidation, merger, sale, conveyance, transfer or other disposition, and any such assumption, comply with the provisions of this Article.

#### ARTICLE 11 SATISFACTION AND DISCHARGE OF INDENTURE; UNCLAIMED MONEYS

SECTION 11.01. SATISFACTION AND DISCHARGE OF INDENTURE. (A) If at any time (a) the Company shall have paid or caused to be paid the principal of, premium, if any, and interest on all the Debentures of any series Outstanding hereunder (other than Debentures of such series which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.07) as and when the same shall have become due and payable, or (b) the Company shall have delivered to the Trustee for cancellation all Debentures of any series theretofore authenticated (other than any Debentures of such series which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.07) or (c) (i) all the Debentures of any series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms will become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory



to the Trustee for the giving of notice of redemption, and (ii) the Company shall have irrevocably deposited or caused to be deposited with the Trustee as trust funds the entire amount in cash (other than moneys repaid by the Trustee or any paying agent to the Company in accordance with Section 11.04) or Government Obligations, maturing as to principal and interest at such times and in such amounts as will insure the availability of cash, or a combination thereof, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (A) the principal of, premium, if any, and interest on all Debentures of such series on each date that such principal or interest is due and payable and (B) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Debentures of such series; and if, in any such case, the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer and exchange of Debentures of such series and the Company's right of optional redemption, if any, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Debentures, (iii) rights of holders of Debentures to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Debentureholders to receive

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mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, (v) the rights of the holders of Debentures of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them, and (vi) the obligations of the Company under Section 4.02) and the Trustee, on demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel and at the cost and expense of the Company, shall execute proper instruments acknowledging such satisfaction of and discharging this Indenture; provided, that the rights of the Debentureholders to receive amounts in respect of principal of, premium, if any, and interest on the Debentures held by them shall not be delayed longer than required by then-applicable mandatory rules or policies of any securities exchange or automated quotation system upon which the Debentures are listed or traded. The Company agrees to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred and to compensate the Trustee for any services thereafter reasonably and properly rendered by the Trustee in connection with this Indenture or the Debentures of such series.

(B) The following provisions shall apply to the Debentures of each series unless specifically otherwise provided in a Board Resolution or indenture supplemental hereto provided pursuant to Section 2.01. In addition to discharge of the Indenture pursuant to the next preceding paragraph, the Company shall be deemed to have paid and discharged the entire indebtedness on all the Debentures of a series on the date of the deposit referred to in subparagraph (a) below, and the provisions of this Indenture with respect to the Debentures of such series shall no longer be in effect (except as to (i) rights of registration of transfer and exchange of Debentures of such series and the Company's right of optional redemption, if any, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Debentures, (iii) rights of holders of Debentures to receive payments of principal thereof and interest thereon, upon the original stated due



dates therefor (but not upon acceleration), and remaining rights of the holders of Debentures to receive mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, (v) the rights of the Holders of Debentures as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them and (vi) the obligations of the Company under Section 4.02) and the Trustee, at the expense of the Company, shall at the Company's request, execute proper instruments acknowledging the same, if

(a) with reference to this provision the Company has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the holders of the Debentures of such series (i) cash in an amount, or (ii) Governmental Obligations maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (iii) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (A) the principal of, or premium, if any, and interest on all Debentures of such series on each date that such principal or interest is due and payable and (B) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Debentures of such series;

(b) such deposit will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the Company is a party or by which it is bound;

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(c) the Company has delivered to the Trustee an Opinion of Counsel based on the fact that (x) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (y) since the date hereof, there has been a change in the applicable Federal income tax law, in either case to the effect that, and such opinion shall confirm that, the holders of the Debentures of such series will not recognize income, gain or loss for Federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to Federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit, defeasance and discharge had not occurred;

(d) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the defeasance contemplated by this provision have been complied with; and

(e) no event or condition shall exist that, pursuant to the provisions of Section 14.02 or 14.03, would prevent the Company from making payments of the principal of, premium, if any, or interest on the Debentures of such series on the date of such deposit.

SECTION 11.02. APPLICATION BY TRUSTEE OF FUNDS DEPOSITED FOR PAYMENT OF

DEBENTURES. Subject to Section 11.04, all moneys deposited with the Trustee (or other trustee) pursuant to Section 11.01 shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Company acting as its own paying agent), to the Holders of the particular Debentures of such series for the payment or redemption of which such moneys have been deposited with the Trustee, of all sums due and to become due thereon for principal and interest; but such money need not be segregated from other funds except to the extent required by law.

SECTION 11.03. REPAYMENT OF MONEYS HELD BY THE PAYING AGENT. In connection with the satisfaction and discharge of this Indenture with respect to Debentures of any series, all moneys then held by any paying agent under the provisions of this Indenture with respect to such series of Debentures shall, upon demand of the Company, be repaid to it or paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 11.04. REPAYMENT OF MONEYS HELD BY THE TRUSTEE. Any moneys deposited with or paid to the Trustee or any paying agent for the payment of the principal of or interest on any Debenture of any series and not applied but remaining unclaimed for two years after the date upon which such principal or interest shall have become due and payable, shall, upon the written request of the Company and unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be repaid to the Company by the Trustee for such series or such paying agent, and a holder of the Debentures of such series

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shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Company for any payment which such holder may be entitled to collect, and all liability of the Trustee or any paying agent with respect to such moneys shall thereupon cease; provided, however, that the Trustee or such paying agent, before being required to make any such repayment with respect to moneys deposited with it for any payment series, shall at the expense of the Company, mail by first-class mail to holders of such Debentures at their addresses as they shall appear on the Debenture Register, notice, that such moneys remain and that, after a date specified therein, which shall not be less than 30 days from the date of such mailing or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 11.05. INDEMNIFICATION RELATING TO GOVERNMENTAL OBLIGATIONS. The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the Governmental Obligations deposited pursuant to Section 11.01 or the principal or interest received in respect of such obligations.

## ARTICLE 12

### IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

SECTION 12.01. INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS OF

COMPANY EXEMPT FROM INDIVIDUAL LIABILITY. No recourse under or upon any obligation, covenant or agreement of this Indenture, or of any Debenture, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, stockholder, officer or director, past, present or future as such, of the Company or of any predecessor or successor corporation, either directly or through the Company or any such predecessor or successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Indenture and the obligations issued hereunder are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, stockholders, officers or directors as such, of the Company or of any predecessor or successor corporation, or any of them, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Debentures or implied therefrom; and that any and all such personal liability of every name and nature, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such incorporator, stockholder, officer or director as such, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Debentures or implied therefrom, are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of such Debentures.

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ARTICLE 13  
MISCELLANEOUS PROVISIONS

SECTION 13.01. SUCCESSORS AND ASSIGNS OF COMPANY BOUND BY INDENTURE. All the covenants, stipulations, promises and agreements in this Indenture contained by or on behalf of the Company shall bind its successors and assigns, whether so expressed or not.

SECTION 13.02. ACTS OF BOARD, COMMITTEE OR OFFICER OF SUCCESSOR COMPANY VALID. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or officer of the Company shall and may be done and performed with like force and effect by the corresponding board, committee or officer of any corporation that shall at the time be the lawful sole successor of the Company.

SECTION 13.03. SURRENDER OF POWERS OF THE COMPANY. The Company by instrument in writing executed by authority of two-thirds of its Board of Directors and delivered to the Trustee may surrender any of the powers reserved to the Company and thereupon such power so surrendered shall terminate both as to the Company and as to any successor corporation.

SECTION 13.04. REQUIRED NOTICES OR DEMANDS MAY BE SERVED BY MAIL. Except as otherwise expressly provided herein, any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the holders of Debentures to or on the Company may be given or served by being deposited first class postage prepaid in a post office letterbox addressed (until another address is filed in writing by the Company with the

Trustee), as follows: Pogo Producing Company, 5 Greenway Plaza, Suite 2700, Houston, Texas 77046, Attention: Corporate Secretary. Any notice, election, request or demand by the Company or any Debentureholder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made in writing at the Corporate Trust Office of the Trustee.

SECTION 13.05. INDENTURE AND DEBENTURES TO BE CONSTRUED IN ACCORDANCE WITH LAWS OF THE STATE OF NEW YORK. This Indenture and each Debenture shall be deemed to be a contract made under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of said State (without regard to principles of conflicts of laws thereof).

SECTION 13.06. OFFICERS' CERTIFICATE AND OPINION OF COUNSEL TO BE FURNISHED UPON APPLICATION OR DEMANDS BY COMPANY; STATEMENTS TO BE INCLUDED IN EACH CERTIFICATE OR OPINION WITH RESPECT TO COMPLIANCE WITH CONDITION OR COVENANT.

(a) Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with,

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except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant in this Indenture (other than the certificate provided pursuant to Section 5.03(d) of this Indenture) shall include (1) a statement that the person making such certificate or opinion has read such covenant or condition; (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (3) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

SECTION 13.07. PAYMENTS DUE ON SUNDAYS OR HOLIDAYS. Except as provided pursuant to Section 2.01 pursuant to a Board Resolution, and as set forth in an Officers' Certificate, or established in one or more indentures supplemental to the Indenture, in any case where the date of maturity of interest or principal of any Debenture or the date of redemption of any Debenture shall not be a Business Day, then payment of interest or principal (and premium, if any) may be made on the next succeeding Business Day, with the same force and effect as if made on the nominal date of maturity or redemption, and no interest shall accrue

for the period after such nominal date.

SECTION 13.08. PROVISIONS REQUIRED BY TRUST INDENTURE ACT OF 1939 TO CONTROL. If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

SECTION 13.09. INDENTURE MAY BE EXECUTED BY ITS COUNTERPARTS. This Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 13.10. SEPARABILITY OF INDENTURE PROVISIONS. In case any one or more of the provisions contained in this Indenture or in the Debentures of any series shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Indenture or of such Debentures, but this Indenture and such Debentures shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

SECTION 13.11. ASSIGNMENT BY COMPANY TO A SUBSIDIARY OR AFFILIATE. The Company will have the right at all times to assign any of its rights or obligations under this Indenture to a Subsidiary or an Affiliate of the Company; provided that, in the event of any such assignment, the Company will remain jointly and severally liable for all such obligations.

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Subject to the foregoing, this Indenture is binding upon and inures to the benefit of the parties thereto and their respective successors and assigns. This Indenture may not otherwise be assigned by the parties hereto (other than pursuant to Article 10).

SECTION 13.12. HOLDERS OF PREFERRED SECURITIES AS THIRD PARTY BENEFICIARIES OF THE INDENTURE; HOLDERS OF PREFERRED SECURITIES MAY INSTITUTE LEGAL PROCEEDINGS AGAINST THE COMPANY IN CERTAIN CASES. The Company acknowledges that, prior to a Security Exchange with respect to Debentures of any series held as trust assets of a Trust, if the Property Trustee of such Trust fails to enforce its rights under this Indenture as the holder of the Debentures of a series held as trust assets of such Trust, any holder of the Preferred Securities of such Trust may in accordance with the provisions of the Declaration of Trust of such Trust, to the fullest extent permitted by law, institute legal proceedings directly against the Company to enforce such Property Trustee's rights under this Indenture without first instituting any legal proceedings against such Property Trustee or any other Person; PROVIDED that, if an Event of Default has occurred and is continuing and such event is attributed to the failure of the Company to pay interest or principal on the Debentures on the date such interest or principal is otherwise payable (or in the case of redemption, on the redemption date), then a holder of Preferred Securities of such Trust may directly institute a proceeding for enforcement of payment to such holder of the principal of or interest on the Debentures having a principal amount equal to the aggregate liquidation amount of the Preferred Securities of such holder (a "Holder Direct Action") on or after the respective due date specified in the Debentures. In connection with such Holder Direct

Action, the Company shall be subrogated to the rights of such holder of Preferred Securities to the extent of any payment made by the Company to such holders of Preferred Securities in such Holder Direct Action. Except as provided in the preceding sentences, the holders of Preferred Securities of such Trust shall not be able to exercise directly any other remedy available to the holders of the Debentures.

ARTICLE 14  
SUBORDINATION OF DEBENTURES

SECTION 14.01. AGREEMENT TO SUBORDINATE. The Company covenants and agrees, and each Debentureholder issued hereunder by his acceptance thereof likewise covenants and agrees, that all Debentures shall be issued subject to the provisions of this Article 14; and each person holding any Debenture, whether upon original issue or upon transfer, assignment or exchange thereof accepts and agrees to be bound by such provisions.

The payment by the Company of the principal of, premium, if any, and interest on all Debentures issued hereunder shall, to the extent and in the manner hereinafter set forth, be subordinated and junior in right of payment to all Senior Debt, whether outstanding at the date of this Indenture or thereafter incurred.

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No provision of this Article 14 shall prevent the occurrence of any Default or Event of Default hereunder.

SECTION 14.02. DEFAULT ON SENIOR DEBT. In the event and during the continuation of any default by the Company in the payment of principal, premium, interest or any other payment due on any Senior Debt, or in the event that the maturity of any Senior Debt has been accelerated because of a default, then, in either case, no payment shall be made by the Company with respect to the principal (including redemption payments) of or premium, if any, or interest on the Debentures until such default shall have been cured or waived in writing or shall have ceased to exist or such Senior Debt shall have been discharged or paid in full.

In the event of the acceleration of the maturity of the Debentures, then no payment shall be made by the Company with respect to the principal (including redemption payments) of or premium, if any, or interest on the Debentures until the holders of all Senior Debt outstanding at the time of such acceleration shall receive payment in full of such Senior Debt (including any amounts due upon acceleration).

In the event that, notwithstanding the foregoing, any payment shall be received by the Trustee or any Debentureholder when such payment is prohibited by the preceding paragraphs of this Section 14.02, such payment shall be held in trust for the benefit of, and shall be paid over or delivered to, the holders of Senior Debt or their respective representatives, or to the trustee or trustees under any indenture pursuant to which any of such Senior Debt may have been issued, as their respective interests may appear.



SECTION 14.03. LIQUIDATION; DISSOLUTION; BANKRUPTCY. Upon any payment by the Company or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors upon any liquidation, dissolution, winding up, receivership, reorganization, assignment for the benefit of creditors, marshaling of assets and liabilities or any bankruptcy, insolvency or similar proceedings of the Company, all amounts due or to become due upon all Senior Debt shall first be paid in full, in cash or cash equivalents, or payment thereof provided for in accordance with its terms, before any payment is made on account of the principal of, premium, if any, or interest on the indebtedness evidenced by the Debentures, and upon any such liquidation, dissolution, winding up, receivership, reorganization, assignment, marshaling or proceeding, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to which the Debentureholders or the Trustee under this Indenture would be entitled, except for the provisions of this Article 14, shall be paid by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other Person making such payment or distribution, or by the Debentureholders or by the Trustee under this Indenture if received by them or it, directly to the holders of Senior Debt (pro rata to such holders on the basis of the respective amounts of Senior Debt held by such holders) or their respective representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Debt may have been issued, as their respective

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interests may appear, to the extent necessary to pay all Senior Debt in full (including, without limitation, except to the extent, if any, prohibited by mandatory provisions of law, post-petition interest, in any such proceedings), after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt, before any payment or distribution is made to the holders of the indebtedness evidenced by the Debentures or to the Trustee under this Indenture.

In the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, prohibited by the foregoing, shall be received by the Trustee under this Indenture or the holders of the Debentures before all Senior Debt is paid in full or provision is made for such payment in accordance with its terms, such payment or distribution shall be held in trust for the benefit of and shall be paid over or delivered to the holders of such Senior Debt or their respective representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Debt may have been issued, as their respective interests may appear, for application to the payment of all Senior Debt remaining unpaid until all such Senior Debt shall have been paid in full in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Debt.

For purposes of this Article 14, the words "cash, property or securities" shall not be deemed to include shares of stock of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of arrangement, reorganization or readjustment, the payment of which is subordinated (at least to the extent provided in this Article 14 with respect to the Debentures) to the payment of all Senior Debt which may at the time be



outstanding; PROVIDED, that (i) the Senior Debt is assumed by the new corporation, if any, resulting from any such arrangement, reorganization or readjustment, and (ii) the rights of the holders of the Senior Debt are not, without the consent of such holders, altered by such arrangement, reorganization or readjustment. The consolidation of the Company with, or the merger of the Company into, another corporation or the liquidation or dissolution of the Company following the conveyance or transfer of its property as an entirety, or substantially as an entirety, to another corporation upon the terms and conditions provided in Article 10 shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section if such other Person shall, as a part of such consolidation, merger, conveyance or transfer, comply with the conditions stated in Article 10. Nothing in Section 14.02 or this Section 14.03 shall apply to claims of, or payments to, the Trustee under or pursuant to Article 7, except as provided therein. This Section shall be subject to the further provisions of Section 14.06.

SECTION 14.04. SUBROGATION OF DEBENTURES. Subject to the payment in full of all Senior Debt, the rights of the holders of the Debentures shall be subrogated to the rights of the holders of Senior Debt to receive payments or distributions of cash, property or securities of the Company applicable to the Senior Debt until the principal of, premium, if any, and interest on the Debentures shall be paid in full; and, for the purposes of such

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subrogation, no payments or distributions to the holders of the Senior Debt of any cash, property or securities to which the holders of the Debentures or the Trustee on their behalf would be entitled except for the provisions of this Article 14 and no payment over pursuant to the provisions of this Article 14 to the holders of Senior Debt by holders of the Debentures or the Trustee on their behalf shall, as between the Company, its creditors other than holders of Senior Debt and the holders of the Debentures, be deemed to be a payment by the Company to or on account of the Senior Debt; and no payments or distributions of cash, property or securities to or for the benefit of the Debentureholders pursuant to the subrogation provisions of this Article, which would otherwise have been paid to the holders of Senior Debt shall be deemed to be a payment by the Company to or for the account of the Debentures. It is understood that the provisions of this Article 14 are and are intended solely for the purpose of defining the relative rights of the holders of the Debentures, on the one hand, and the holders of the Senior Debt, on the other hand.

Nothing contained in this Article 14 or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Debt, and the holders of the Debentures, the obligation of the Company, which is absolute and unconditional, to pay to the holders of the Debentures the principal of, premium, if any, and interest on the Debentures as and when the same shall become due and payable in accordance with their terms, or is intended to or shall affect the relative rights of the holders of the Debentures and creditors of the Company other than the holders of the Senior Debt, nor shall anything herein or therein prevent the holder of any Debenture or the Trustee on his behalf from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article 14 of the holders

of Senior Debt in respect of cash, property or securities of the Company received upon the exercise of any such remedy.

Upon any payment or distribution of assets of the Company referred to in this Article 14, the Trustee, subject to the provisions of Article 7, and the holders of the Debentures shall be entitled to rely upon any order or decree made by any court of competent jurisdiction in which such liquidation, dissolution, winding up, receivership, reorganization, assignment or marshaling proceedings are pending, or a certificate of the receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distribution, delivered to the Trustee or to the holders of the Debentures, for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of the Senior Debt and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 14.

SECTION 14.05. AUTHORIZATION BY DEBENTUREHOLDERS. Each holder of a Debenture by his acceptance thereof authorizes and directs the Trustee in his behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in this Article 14 and appoints the Trustee his attorney-in-fact for any and all such purposes.

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SECTION 14.06. NOTICE TO TRUSTEE. The Company shall give prompt written notice to the Trustee and to any paying agent of any fact known to the Company which would prohibit the making of any payment of moneys to or by the Trustee or any paying agent in respect of the Debentures pursuant to the provisions of this Article 14. Regardless of anything to the contrary contained in this Article 14 or elsewhere in this Indenture, the Trustee shall not be charged with knowledge of the existence of any Senior Debt or of any default or event of default with respect to any Senior Debt or of any other facts which would prohibit the making of any payment of moneys to or by the Trustee, unless and until the Trustee shall have received notice in writing at its principal Corporate Trust Office to that effect signed by an officer of the Company, or by a holder or agent of a holder of Senior Debt who shall have been certified by the Company or otherwise established to the reasonable satisfaction of the Trustee to be such holder or agent, or by the trustee under any indenture pursuant to which Senior Debt shall be outstanding, and, prior to the receipt of any such written notice, the Trustee shall, subject to the provisions of Article 7, be entitled to assume that no such facts exist; PROVIDED, HOWEVER, that if on a date at least three Business Days prior to the date upon which by the terms hereof any such moneys shall become payable for any purpose (including, without limitation, the payment of the principal of, or interest on any Debenture) the Trustee shall not have received with respect to such moneys the notice provided for in this Section 14.06, then, regardless of anything herein to the contrary, the Trustee shall have full power and authority to receive such moneys and to apply the same to the purpose for which they were received, and shall not be affected by any notice to the contrary which may be received by it on or after such prior date.

The Trustee shall be entitled to conclusively rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Debt

(or a trustee on behalf of such holder) to establish that such notice has been given by a holder of Senior Debt or a trustee on behalf of any such holder. In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Debt to participate in any payment or distribution pursuant to this Article 14, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Debt held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article 14, and if such evidence is not furnished the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

SECTION 14.07. TRUSTEE'S RELATION TO SENIOR DEBT. The Trustee and any agent of the Company or the Trustee shall be entitled to all the rights set forth in this Article 14 with respect to any Senior Debt which may at any time be held by it in its individual or any other capacity to the same extent as any other holder of Senior Debt and nothing in this Indenture shall deprive the Trustee or any such agent, of any of its rights as such holder. Nothing in this Article 14 shall apply to claims of, or payments to, the Trustee under or pursuant to Article 7.

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With respect to the holders of Senior Debt, the Trustee undertakes to perform or to observe only such of its covenants and obligations as are specifically set forth in this Article 14, and no implied covenants or obligations with respect to the holders of Senior Debt shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt and, subject to the provisions of Article 7, the Trustee shall not be liable to any holder of Senior Debt if it shall pay over or deliver to holders of Debentures, the Company or any other person moneys or assets to which any holder of Senior Debt shall be entitled by virtue of this Article 14 or otherwise.

SECTION 14.08. NO IMPAIRMENT TO SUBORDINATION. No right of any present or future holder of any Senior Debt to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or otherwise be charged with.

Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Debt may, at any time and from time to time, without the consent of or notice to the Trustee or the Debentureholders, without incurring responsibility to the Debentureholders and without impairing or releasing the subordination provided in this Article 14 or the obligations hereunder of the holders of the Debentures to the holders of such Senior Debt, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, such Senior Debt, or otherwise amend or supplement in any manner such Senior Debt or any instrument evidencing the same or any agreement under which such Senior Debt is outstanding; (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or

otherwise securing such Senior Debt; (iii) release any Person liable in any manner for the collection of such Senior Debt; and (iv) exercise or refrain from exercising any rights against the Company, as the case may be, and any other Person.

SECTION 14.09. ARTICLE APPLICABLE TO PAYING AGENTS. In case at any time any paying agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article 14 shall in such case (unless the context otherwise requires) be construed as extending to and including such paying agent within its meaning as fully for all intents and purposes as if such paying agent were named in this Article 14 in addition to or in place of the Trustee.

SECTION 14.10. TRUST MONEYS NOT SUBORDINATED. Notwithstanding anything contained herein to the contrary, payments from money or the proceeds of U.S. Government Obligations held in trust under Section 11.02 of this Indenture by the Trustee for the payment of principal of and interest on the Debentures shall not be subordinated to the prior payment of any Senior Debt or subject to the restrictions set forth in this Article 14, and none of the

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Debentureholders shall be obligated to pay over any such amount to the Company or any holder of Senior Debt or any other creditor of the Company.

Wilmington Trust Company, as Trustee, hereby accepts the trust in this Indenture declared and provided, upon the terms and conditions herein above set forth.

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IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the day and year first above written.

POGO PRODUCING COMPANY

By

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Name:

Title:

WILMINGTON TRUST COMPANY,  
not in its individual capacity, but  
solely as Trustee

By

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Name:

Title:

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POGO PRODUCING COMPANY

AND

WILMINGTON TRUST COMPANY,

as Trustee

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SUPPLEMENTAL INDENTURE NO. 1

Dated as of June 1, 1999

TO

JUNIOR SUBORDINATED INDENTURE

Dated as of June 1, 1999

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6 1/2% Junior Subordinated Convertible Debentures, Series A due 2029

\$154,640,000

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SUPPLEMENTAL INDENTURE NO. 1, dated as of the first day of June, 1999, between Pogo Producing Company, a corporation duly organized and existing under the laws of the State of Delaware (the "Company"), and Wilmington Trust Company, a Delaware banking corporation, as trustee (the "Trustee").

RECITALS

The Company has heretofore executed and delivered to the Trustee a Junior Subordinated Indenture, dated as of June 1, 1999 (the "Indenture"),

providing for the issuance from time to time of one or more series of its unsecured junior subordinated debentures (the "Debentures").

Pursuant to the terms of the Indenture, the Company desires to provide for the establishment of a new series of Debentures to be designated as the 6 1/2% Junior Subordinated Convertible Debentures, Series A due 2029 (the "Series A Debentures"), the form and substance of such Series A Debentures and the terms, provisions and conditions thereof to be as set forth or provided in the Indenture and this Supplemental Indenture No. 1.

The Company has caused Pogo Trust I ("Pogo Trust I") to be created as a statutory business trust under the Business Trust Act of the State of Delaware (12 DEL. CODE Section 3801 ET SEQ.) pursuant to a Declaration of Trust, dated as of March 17, 1999 (the "Original Declaration"), and the filing of a Certificate of Trust with the Secretary of State of the State of Delaware on March 18, 1999.

The Original Declaration is to be amended and restated in its entirety pursuant to an Amended and Restated Declaration of Trust dated as of June 2, 1999 (such Amended and Restated Declaration of Trust, as amended from time to time, the "Declaration of Trust").

Pogo Trust I desires to issue \$150,000,000 aggregate liquidation amount of its 6 1/2% Cumulative Quarterly Income Convertible Preferred Securities, Series A (the "Preferred Securities") and sell such Preferred Securities to the underwriters set forth in that certain Underwriting Agreement dated May 26, 1999 (the "Underwriting Agreement") by and among the Company, Pogo Trust I and the underwriters named therein.

In connection with such purchases of Preferred Securities and the related purchases by the Company of the Common Securities (as defined in the Declaration of Trust) of Pogo Trust I, Pogo Trust I will purchase and hold as trust assets up to \$154,640,000 aggregate principal amount of the Series A Debentures.

Pursuant to the Declaration of Trust, the legal title to the Series A Debentures shall be owned and held of record in the name of Wilmington Trust Company or its successor under the Declaration of Trust, as Property Trustee (the "Property Trustee"), in trust for the benefit of holders of the Preferred Securities and the Common Securities.

Upon written direction of the Company or any subsequent holder of the Common Securities, the Regular Trustees (as defined in the Declaration of Trust) of Pogo Trust I shall, unless the Series A Debentures are redeemed as described herein, dissolve Pogo Trust I and cause to be distributed to the holders of the Preferred Securities and the Common Securities, on a Pro Rata basis (as defined,

and determined as provided, in the terms of the Preferred Securities and Common Securities attached as Exhibits B and C to the Declaration of Trust), Series A Debentures and, in connection with a Liquidation Distribution (as defined in the Declaration of Trust), the Regular Trustees may cause to be distributed to holders of Preferred Securities and Common Securities, on a Pro Rata basis, Series A Debentures (each a "Dissolution Event").

Section 2.01 of the Indenture provides that various matters with respect to any series of Debentures issued under the Indenture may be established in an indenture supplemental to the Indenture.

Subparagraph (h) of Section 9.01 of the Indenture provides that the Company and the Trustee may enter into an indenture supplemental to the Indenture to establish the form or terms of Debentures of any series as permitted by Section 2.01 of the Indenture.

For and in consideration of the premises and the issuance of the Series A Debentures provided for herein, it is mutually covenanted and agreed, for the equal and proportionate benefit of the holders of the Series A Debentures, as follows:

## ARTICLE ONE

### Relation to Indenture; Additional Definitions

SECTION 1.01. Relation to Indenture. This Supplemental Indenture No. 1 constitutes an integral part of the Indenture.

SECTION 1.02. Additional Definitions. For all purposes of this Supplemental Indenture No. 1:

(1) Capitalized terms used herein shall have the meanings specified herein or in the Indenture, as the case may be;

(2) "Additional Interest" has the meaning set forth in Section 2.05(d) hereof;

(3) "Applicable Price" means (i) in the case of a Non-Stock Fundamental Change in which the holders of the Common Stock received only cash, the amount of cash received by the holder of one share of Common Stock and (ii) in the event of any other Non-Stock Fundamental Change or any Common Stock Fundamental Change, the average of the Closing Prices for the Common Stock during the ten trading days prior to and

including the record date for the determination of the holders of Common Stock entitled to receive such securities, cash, or other property in



connection with such Non-Stock Fundamental Change or Common Stock Fundamental Change or, if there is no such record date, the date upon which the holders of the Common Stock shall have the right to receive such securities, cash, or other property, in each case as adjusted in good faith by the Company to appropriately reflect any of the events referred to in Section 5.03;

(4) "Change in Investment Company Act Law" has the meaning set forth in the definition of Investment Company Event;

(5) "Closing Price" means for any day, the average of the highest and lowest reported sale prices, regular way, of Common Stock on such day, or, if no sales take place on such day, the average of the reported closing bid and asked prices on such day, regular way, in either case as reported on the NYSE Consolidated Transactions Tape, or, if the Common Stock is not listed or admitted to trading on the NYSE, on the principal national securities exchange on which the Common Stock is listed or admitted to trading, if the Common Stock is listed on a national securities exchange, or the Nasdaq National Market, or, if the Common Stock is not quoted or admitted to trading on such quotation system, on the principal quotation system on which the Common Stock may be listed or admitted to trading or quoted, or, if not listed or admitted to trading or quoted on any national securities exchange or quotation system, the average of the highest and lowest bid and asked prices of the Common Stock in the over-the-counter market on such day as reported by the National Quotation Bureau Incorporated, or a similar generally accepted reporting service, or, if not so available in such manner, as furnished by any NYSE member firm selected from time to time by the Board of Directors of the Company for that purpose or, if not so available in such manner, as otherwise determined in good faith by the Board of Directors of the Company;

(6) "Common Securities" has the meaning set forth in the Recitals herein;

(7) "Common Stock" means the common stock, par value \$1.00 per share, of the Company including associated preferred share purchase rights;

(8) "Common Stock Fundamental Change" means any Fundamental Change in which more than 50% of the value (as determined in good faith by the Board of Directors) of the consideration received by holders of Common Stock consisted of common stock that for each of the ten consecutive trading days prior to the record date for the determination of the holders of Common Stock entitled to receive such common stock or, if there is no such record date, the date on which the holders of the Common Stock shall have the right to receive such Common Stock, has been admitted for listing or admitted for listing subject to notice of issuance on a national securities exchange or quoted on the Nasdaq National Market; provided, however, that a Fundamental Change shall not be a

Common Stock Fundamental Change unless either (i) the Company continues to exist after the occurrence of such Fundamental Change and the outstanding Preferred Securities continue to exist as outstanding Preferred Securities or (ii) not later than the occurrence of such Fundamental Change, the outstanding Series A Debentures are converted into or exchanged for debentures of a corporation succeeding to the business of the Company, which debentures shall have terms substantially similar to those of the Series A Debentures;

(9) "Compounded Interest" has the meaning set forth in Section 2.05(a) hereof;

(10) "Conversion Agent" has the meaning set forth in Section 5.02(a) hereof;

(11) "Conversion Date" has the meaning set forth in Section 5.02(a) hereof;

(12) "Conversion Expiration Date" means the earlier of (i) the close of business on May 31, 2029, or (ii) in the case of Series A Debentures called for redemption, the close of business on the Business Day prior to the redemption date;

(13) "Conversion Price" has the meaning specified in Section 5.01 hereof;

(14) "Debentures" has the meaning set forth in the Recitals herein;

(15) "Declaration of Trust" has the meaning set forth in the Recitals herein;

(16) "Dissolution Event" has the meaning set forth in the Recitals herein;

(17) "Expiration Time" has the meaning set forth in Section 5.03(e) hereof;

(18) "Extended Interest Payment Period" has the meaning set forth in Section 4.01(a) hereof;

(19) "Fractional Share Cash Payment Amount" has the meaning specified in Section 5.02(e) hereof;

(20) "Fundamental Change" means the occurrence of any Transaction or event in connection with a plan pursuant to which all or substantially all of the Common Stock shall be exchanged for, converted into, acquired for, or constitute solely the right to receive securities, cash, or other

property (whether by means of an exchange offer, liquidation, tender offer, consolidation, merger, combination, reclassification, recapitalization, or otherwise), PROVIDED, that, in the case of a plan involving more than one such Transaction or event, for purposes of adjustment of the Conversion Price, such Fundamental Change shall be deemed to have occurred when substantially all of the Common Stock shall be exchanged for, converted into, or acquired for or constitute solely

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the right to receive securities, cash, or other property, but the adjustment shall be based upon the consideration that a holder of Common Stock received in such Transaction or event as a result of which more than 50% of the Common Stock shall have been exchanged for, converted into, or acquired for or constitute solely the right to receive securities, cash, or other property;

(21) "Guarantee Payments" has the meaning set forth in Section 6.01 hereof;

(22) "Indenture" has the meaning set forth in the Recitals herein;

(23) "Interest Payment Date" has the meaning set forth in Section 2.05(a) hereof;

(24) "Investment Company Act" means the Investment Company Act of 1940, as amended;

(25) "Investment Company Event" means that the Company and the Regular Trustees shall have received an opinion of independent nationally recognized counsel, who may be counsel for Pogo Trust I, the Trustee or the Company, but who may not be an employee of the Company, Pogo Trust I or the Trustee, and who shall be reasonably acceptable to the Trustee, experienced in practice under the Investment Company Act that as a result of the occurrence of a change in law or regulation or a change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority (a "Change in Investment Company Act Law"), there is more than an insubstantial risk that Pogo Trust I is or will be considered an "investment company" which is required to be registered under the Investment Company Act, which Change in Investment Company Act Law becomes effective on or after May 26, 1999;

(26) "Liquidation Distribution" has the meaning set forth in the Recitals herein;

(27) "Maturity Date" has the meaning set forth in Section 2.03 hereof;

(28) "Non Book-Entry Preferred Securities" has the meaning set forth in Section 2.04(b)(ii) hereof;

(29) "Non-Stock Fundamental Change" means any Fundamental Change other than a Common Stock Fundamental Change;

(30) "Notice of Conversion" means (i) the notice given by a holder of Series A Debentures to the Conversion Agent directing the Conversion Agent to exchange Series A Debentures of such holder into Common Stock on behalf of such holder, or (ii) the notice given by a holder of Preferred Securities to the Conversion Agent directing the Conversion Agent to exchange Preferred Securities of such holder for Series A

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Debentures and to convert such Series A Debentures into Common Stock on behalf of such holder, any such notice including the information specified by Section 5.02 hereof;

(31) "NYSE" means the New York Stock Exchange, Inc.;

(32) "Optional Redemption Price" has the meaning set forth in Section 3.01(a) hereof;

(33) "Original Declaration" has the meaning set forth in the Recitals herein;

(34) "Pogo Trust I" has the meaning set forth in the Recitals herein;

(35) "Preferred Securities" has the meaning set forth in the Recitals herein;

(36) "Preferred Securities Guarantee" means the Guarantee Agreement, dated as of June 2, 1999, between the Company and Wilmington Trust Company as the initial Guarantee Trustee thereunder, in respect of the Preferred Securities;

(37) "Property Account" has the meaning set forth in Section 2.04(a) hereof;

(38) "Property Trustee" has the meaning set forth in the Recitals herein;

(39) "Purchased Shares" has the meaning set forth in Section 5.03(e) hereof;

(40) "Purchaser Stock Price" means, with respect to any Common Stock Fundamental Change, the average of the Closing Prices for the common stock

received in such Common Stock Fundamental Change for the ten consecutive trading days prior to and including the record date for the determination of the holders of Common Stock entitled to receive such common stock or, if there is no such record date, the date on which the holders of Common Stock shall have the right to receive such common stock, as adjusted in good faith by the Company to appropriately reflect any of the events referred to in Section 5.03;

(41) "Regular Trustees" has the meaning set forth in the Recitals herein;

(42) "Reference Market Price" initially means \$12.67 (which is an amount equal to 66 2/3% of the reported last sales price for the Common Stock on the NYSE Consolidated Transactions Tape on May 26, 1999), and in the event of any adjustment of the Conversion Price other than as a result of a Non-Stock Fundamental Change, the Reference Market Price shall also be adjusted so that the ratio of the Reference Market Price to the Conversion Price after giving effect to any such adjustment shall always be the same as the ratio of the initial Reference Market Price to the initial Conversion Price of the Debentures;

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(43) "Rights" has the meaning specified in Section 5.02(h) hereof;

(44) "Series A Debentures" has the meaning set forth in the Recitals herein and Section 2.01 hereof;

(45) "Special Event" means either a Tax Event or an Investment Company Event;

(46) "Tax Event" means that the Company and the Regular Trustees shall have received an opinion of counsel from independent nationally recognized tax counsel experienced in such matters and who shall be reasonably acceptable to the Trustee, to the effect that on or after May 26, 1999 as a result of (a) any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority thereof or therein, (b) any amendment to, or change in, an interpretation or application of any such laws or regulations by any legislative body, court, governmental agency or regulatory authority (including the enactment of any legislation or the publication of any judicial decision or regulatory determination), (c) any interpretation or pronouncement by any legislative body, court, governmental agency or regulatory authority that provides for a position with respect to such laws or regulations that differs from its previous position or a theretofore commonly accepted position or (d) any action taken by any governmental agency or regulatory authority, which amendment or change is

enacted, promulgated, issued or announced or which interpretation or pronouncement is issued or announced or which action is taken, in each case on or after May 26, 1999, there is more than a remote risk that (i) Pogo Trust I is, or will be within 90 days of the date thereof, subject to federal income tax with respect to income accrued or received on the Series A Debentures, (ii) Pogo Trust I is, or will be within 90 days of the date thereof, subject to more than a DE MINIMIS amount of taxes, duties or other governmental charges or (iii) interest payable by the Company to Pogo Trust I on the Series A Debentures is not, or within 90 days of the date thereof will not be, deductible by the Company for United States federal income tax purposes;

(47) "Tax Redemption Price" means with respect to each \$50 principal amount of Series A Debentures (i) if the Series A Debentures are redeemed as a result of the occurrence of a Tax Event prior to June 1, 2002, the greater of (a) the total principal amount of such Series A Debenture or the liquidation amount of the Preferred Securities, (b) the average of the highest and lowest reported sale prices, regular way, of the Preferred Securities over the five trading days immediately prior to the day on which notice of such redemption is given, and (c) the average of the highest and lowest reported sale prices, regular way, of Preferred Securities on the trading day immediately prior to the day on which notice of such redemption is given

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or (ii) if the Series A Debentures are redeemed as a result of the occurrence of a Tax Event on or after June 1, 2002, the principal amount of such Series A Debentures. For purposes of clauses (b) and (c) above, if the Series A Debentures have been distributed in exchange for Preferred Securities, the references to sales prices shall be deemed to refer to the sale prices of the Series A Debentures.

(48) "Transaction" has the meaning set forth in Section 5.04(a) hereof;

(49) All references herein to Articles and Sections, unless otherwise specified, refer to the corresponding Articles and Sections of this Supplemental Indenture No. 1; and

(50) The terms "herein," "hereof," "hereunder" and other words of similar import refer to this Supplemental Indenture No. 1.

## ARTICLE TWO

### General Terms and Conditions of the Series A Debentures

SECTION 2.01. Title of Debentures. There shall be and is hereby authorized a series of Debentures designated as the "6 1/2% Junior Subordinated

SECTION 2.02. Limitation on Aggregate Principal Amount. The aggregate principal amount of the Series A Debentures shall be limited to \$154,640,000; PROVIDED, HOWEVER, that the authorized aggregate principal amount of the Series A Debentures may be increased above such amount by a Board Resolution to such effect. Each Series A Debenture shall be dated the date of its authentication.

SECTION 2.03. Maturity Date. (a) The Series A Debentures shall mature and the principal amount thereof shall be due and payable together with all accrued and unpaid interest thereon, including Additional Interest and Compounded Interest, if any, on June 1, 2029 (the "Maturity Date"); PROVIDED, if a Tax Event occurs, then the Company will have the right (a) prior to the dissolution of Pogo Trust I, to shorten the Maturity Date of the Series A Debentures, to the minimum extent required, but not earlier than June 2, 2014, or (b) to direct the Property Trustee to dissolve Pogo Trust I (if not previously dissolved) and shorten the Maturity Date of the Series A Debentures, to the minimum extent required, but not earlier than June 2, 2014, in each case such that in the opinion of an independent nationally recognized counsel to the Company, experienced in such matters, after shortening the Maturity Date, interest paid on the Series A Debentures will be deductible for federal income tax purposes.

(b) Whenever the Maturity Date is shortened in accordance with this Section 2.03, a notice stating the Maturity Date has been adjusted and setting forth the adjusted Maturity Date shall as soon as practicable be mailed by the Company to all record holders of the Series A Debentures at their last addresses as they appear on the Debenture Register.

SECTION 2.04. Place of Payment, Registration or Exchange.

(a) Except as provided in Section 2.04(b), the Series A Debentures shall be issued in fully registered certificated form without interest coupons in denominations of \$50 or

integral multiples thereof. Principal and interest on the Series A Debentures issued in certificated form will be payable, the transfer of such Series A Debentures will be registrable and such Series A Debentures will be exchangeable for Series A Debentures bearing identical terms and provisions at the Corporate Trust Office of the Trustee; provided, however, that payment of interest may be made at the option of the Company by check mailed to the registered holders at such addresses as shall appear in the Debenture Register and that the payment of principal with respect to the Series A Debentures will only be made upon surrender of the Series A Debentures to the Trustee. Notwithstanding the foregoing, so long as the Property Trustee is the legal owner and record holder



of the Series A Debentures, the payment of the principal of and interest (including Additional Interest and Compounded Interest, if any) on the Series A Debentures held by the Property Trustee will be made by the Company in immediately available funds on the payment date therefor at such place and to the Property Account (as defined in the Declaration of Trust) established and maintained by the Property Trustee pursuant to the Declaration of Trust.

(b) In connection with a Dissolution Event:

- (i) Series A Debentures in certificated form may be presented to the Trustee by the Property Trustee in exchange for one or more Global Debentures representing the Series A Debentures in an aggregate principal amount equal to all outstanding Series A Debentures, to be registered in the name of the Depositary, or its nominee, and delivered by the Trustee to the Depositary for crediting to the accounts of its participants pursuant to the instructions of the Regular Trustees. The Company upon any such presentation shall execute one or more Global Debentures representing the Series A Debentures in such aggregate principal amount and deliver the same to the Trustee for authentication and delivery in accordance with the Indenture and this Supplemental Indenture No. 1. Payments on the Series A Debentures issued as a Global Debenture will be made to the Depositary; and
- (ii) if any Preferred Securities are held in non book-entry certificated form, any Definitive Preferred Security Certificate (as defined in the Declaration of Trust) which represents Preferred Securities other than Preferred Securities held by the Clearing Agency (as defined in the Declaration of Trust) or its nominee ("Non Book-Entry Preferred Securities") will be deemed to represent beneficial interests in Series A Debentures presented to the Trustee by the Property Trustee having an aggregate principal amount equal to the aggregate liquidation amount of the Non Book-Entry Preferred Securities until such Definitive Preferred Security Certificate is presented to the Debenture Registrar for transfer or reissuance at which time such Preferred Security Certificate will be canceled and a Series A Debenture, registered in the name of the holder of the Preferred Security Certificate or the transferee of the holder of such Preferred Security Certificate, as the case may be, with

an aggregate principal amount equal to the aggregate liquidation amount of the Definitive Preferred Security Certificate canceled will be executed by the Company and delivered to the Trustee for authentication and delivery in accordance with the Indenture and this Supplemental

Indenture No. 1. Upon issuance of such Series A Debentures, Series A Debentures with an equivalent aggregate amount that were presented by the Property Trustee to the Trustee will be deemed to have been canceled.

SECTION 2.05. Interest and Interest Rates.

(a) Each Series A Debenture will bear interest at the rate of 6 1/2% per annum from June 2, 1999 until the principal thereof becomes due and payable, and on any overdue principal and (to the extent that payment of such interest is enforceable under applicable law) on any overdue installment of interest at the same rate per annum (6 1/2%), compounded quarterly ("Compounded Interest"), payable (subject to the provisions of Article Four) quarterly in arrears on March 1, June 1, September 1 and December 1 of each year (each an "Interest Payment Date"), commencing on September 1, 1999, to the person in whose name such Series A Debenture or any predecessor Series A Debenture is registered, at the close of business on the regular record date for such interest installment, which, except as set forth below, shall be, in respect of any Series A Debentures of which the Property Trustee is the registered holder or a Global Debenture, the close of business on the Business Day next preceding that Interest Payment Date. Notwithstanding the foregoing sentence, if the Preferred Securities are no longer in book-entry only form or if pursuant to the provisions of Section 2.11(c) of the Indenture the Series A Debentures are not represented by a Global Debenture, the regular record date for such interest installment shall be the fifteenth day of the month preceding the month in which that Interest Payment Date occurs.

(b) Any such interest installment not punctually paid or duly provided for shall forthwith cease to be payable to the registered holders on such regular record date, and shall instead be paid to the person in whose name the Series A Debenture (or one or more Predecessor Debentures) is registered at the close of business on a special record date to be fixed by the Trustee for the payment of such defaulted interest, notice whereof shall be given to the registered holders of the Series A Debentures not less than 10 days prior to such special record date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange or quotation system on which the Series A Debentures may be listed or traded, and upon such notice as may be required by such exchange or quotation system, all as more fully provided in Section 2.03 of the Indenture.

(c) The amount of interest payable for any full quarterly interest period will be computed on the basis of a 360-day year of twelve 30-day months, and for any period shorter than a full quarterly interest period for which interest is computed, interest shall be computed on the basis of the actual number of days elapsed per 90-day quarter. In the event that any date on which interest is payable on the Series A Debentures is not a Business Day, then

payment of interest payable on such date shall be made on the next succeeding day which is a Business Day (and without any interest or other payment in respect of any such delay), except that, if such Business Day is in the next succeeding calendar year, such payment shall be made on the immediately preceding Business Day, in each case with the same force and effect as if made on the date such payment was originally payable.

(d) If at any time Pogo Trust I shall be required to pay any taxes, duties, assessments or governmental charges of any nature (other than withholding taxes) imposed by the Internal Revenue Service or any other taxing authority, then, in any such case, the Company shall pay as additional interest ("Additional Interest") on the Series A Debentures such additional amounts as shall be required so that the net amounts received and retained by Pogo Trust I after paying any such taxes, duties, assessments or other governmental charges shall be equal to the amounts Pogo Trust I would have received had no such taxes, duties, assessments or other governmental charges been imposed.

SECTION 2.06. Denomination of Debentures. The Series A Debentures shall be in registered form without coupons and shall be issuable in denominations of \$50 and integral multiples thereof.

SECTION 2.07. Currency. Payment of principal and interest on the Series A Debentures shall be payable in U.S. dollars.

SECTION 2.08. Paying Agent. The Trustee shall initially serve as paying agent of the Series A Debentures.

SECTION 2.09. Sinking Fund Obligations. The Company has no obligation to redeem or purchase any Series A Debentures pursuant to any sinking fund or analogous provisions (including payments made in cash in anticipation of future sinking fund obligations) or at the option of a holder thereof.

SECTION 2.10. Additional Events of Default.

(a) The Events of Default specified in Section 6.01(a) of the Indenture shall constitute Events of Default with respect to the Series A Debentures, except as modified below.

(b) The Company's failure to pay interest on the Series A Debentures for 30 days, subject to Company's right to extend the interest payment period of the Series A Debentures provided in Article IV hereof, shall constitute an Event of Default under the Indenture.

(c) The Company's failure to deliver Shares of Common Stock in accordance with the provisions of Article V hereof upon appropriate election by a holder of Series A Debentures to convert such Series A Debentures into Common Stock shall constitute an Event of Default under the Indenture.

SECTION 2.11. Defeasance. Section 11.01(B) of the Indenture shall not apply to the Series A Debentures.

### ARTICLE THREE

#### Optional Redemption of the Series A Debentures

SECTION 3.01. Optional Redemption on or after June 1, 2002.

(a) Except as provided in Section 3.02 hereof and subject to the provisions below, Series A Debentures shall not be redeemed by the Company prior to June 1, 2002. Subject to the terms of Article 3 of the Indenture, the Company shall have the right to redeem the Series A Debentures, in whole or in part, at any time from time to time on or after June 1, 2002, upon not less than 30 nor more than 60 days' notice to each holder of the Series A Debentures, during the twelve-month periods commencing June 1 in each of the following years at the indicated redemption price (expressed as a percentage of the principal amount of the Series A Debentures being redeemed), together with any accrued and unpaid interest thereon, including Compounded Interest and Additional Interest, if any, to, but excluding, the date of such redemption (the "Optional Redemption Price"):

<TABLE>  
<CAPTION>

Redemption Price		Redemption Price	
Year	(% of principal amount)	Year	(% of principal amount)
----	-----	----	-----
<S>	<C>	<C>	<C>
2002 . . . . .	104.55%	2006 . . . . .	101.95%
2003 . . . . .	103.90%	2007 . . . . .	101.30%
2004 . . . . .	103.25%	2008 . . . . .	100.65%
2005 . . . . .	102.60%	2009 and thereafter .	100%

</TABLE>

(b) If the Series A Debentures are redeemed on any Interest Payment Date, accrued and unpaid interest shall be payable to holders of record on the relevant record date.

(c) If the Series A Debentures are redeemed after a record date and on or before the related Interest Payment Date, accrued and unpaid interest shall be payable to holders of record on the relevant record date.

(d) The Company shall not redeem any Series A Debentures unless all accrued and unpaid interest thereon, including Compounded Interest and Additional Interest, if any, has been paid in full for all quarterly interest periods terminating prior to and including the redemption date.

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(e) If the Company gives a notice of redemption in respect of Series A Debentures (which notice will be irrevocable), then by 12:00 noon, New York City time, on the redemption date, the Company shall deposit irrevocably with the Trustee funds sufficient to pay the applicable Optional Redemption Price and shall give irrevocable instructions and authority to pay such Optional Redemption Price to the holders of the Series A Debentures. If notice of redemption shall have been given and funds deposited as required, then immediately prior to the close of business on the redemption date interest shall cease to accrue on the Series A Debentures called for redemption, such Series A Debentures shall no longer be deemed to be outstanding and all rights of holders of such Series A Debentures so called for redemption shall cease, except the right of the holders of such Series A Debentures to receive the Optional Redemption Price but without interest on such Optional Redemption Price.

(f) If any date fixed for redemption of any Series A Debentures is not a Business Day, then payment of the Optional Redemption Price payable on such date shall be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day falls in the next calendar year, such payment will be made on the immediately preceding Business Day, in each case with the same force and effect as if made on such date fixed for redemption. If the Company fails to repay the Series A Debentures on maturity or the date fixed for redemption or if payment of the Optional Redemption Price in respect of the Series A Debentures is improperly withheld or refused and not paid by the Company, interest on such Series A Debentures shall continue to accrue from the original redemption date to the date of payment, in which case the actual payment date shall be considered the date fixed for redemption for purposes of calculating the Optional Redemption Price.

(g) In the event of any redemption in part, the Company shall not be required to (i) issue, register the transfer of or exchange any Series A Debentures during a period beginning at the opening of business 15 days before the mailing of a notice of redemption of Series A Debentures and ending at the close of business on the date of such mailing and (ii) register the transfer of or exchange any Series A Debentures so selected for redemption, in whole or in part, except the unredeemed portion of any Series A Debentures being redeemed in part.

#### SECTION 3.02. Optional Redemption upon the Occurrence of a Tax Event.

If a Tax Event shall occur and be continuing, the Company shall have

the right within 90 days following the occurrence of such Tax Event to redeem the Series A Debentures in whole, but not in part, for cash at the Tax Redemption Price, together with any accrued and unpaid interest thereon, including Compounded Interest and Additional Interest, if any, to, but excluding, the date of such redemption.

SECTION 3.03. Partial Redemption. If the Series A Debentures are only partially redeemed pursuant to this Article Three, the Series A Debentures will be redeemed pro rata or by lot or by any other method utilized by the Trustee. Notwithstanding the foregoing, if a partial redemption of the Series A Debentures would result in the delisting of the Preferred Securities by any national securities exchange or other organization on which the Preferred Securities are then listed or traded, the Company shall not be permitted to effect such partial redemption and will only redeem the Series A Debentures in whole.

SECTION 3.04. Corresponding Redemption of Preferred Securities. So long as the Preferred Securities are outstanding, the proceeds from the redemption of the Series A Debentures will be used by Pogo Trust I to redeem Preferred Securities having an aggregate liquidation amount equal to the aggregate principal amount of the Series A Debentures so redeemed.

SECTION 3.05. Exchange of Preferred Securities for Series A Debentures.

(a) At any time, the Company shall have the right to dissolve the Trust and cause the Series A Debentures to be distributed to the holders of the Preferred Securities in liquidation of Pogo Trust I after satisfaction of liabilities to creditors of Pogo Trust I as provided by applicable law.

(b) If a Special Event in respect of Pogo Trust I shall occur, the Company shall give the Property Trustee notice of the same. If a Special Event in respect of Pogo Trust I shall occur and be continuing, the Declaration of Trust requires the Property Trustee to direct the Conversion Agent (as defined in the Declaration of Trust) to exchange all outstanding Preferred Securities for the Series A Debentures having a principal amount equal to the aggregate liquidation amount of the Preferred Securities to be exchanged with accrued interest in an amount equal to any unpaid distributions (including any Additional Interest) on the Preferred Securities; PROVIDED, THAT, in the case of a Tax Event, the Company shall have the right to direct the Property Trustee that less than all, or none of the Preferred Securities be so exchanged (i) if and for so long as the Company shall have elected to pay any Additional Interest such that the net amounts received by holders of the Preferred Securities not so exchanged in respect of distributions are not reduced as a result of such Tax Event, and shall not have revoked any such election or failed to make such payments or

(ii) if the Company shall instead elect to redeem the Series A Debentures, in whole or in part, in the manner set forth in Section 3.02.

#### ARTICLE FOUR

##### Extension of Interest Payment Period

###### SECTION 4.01. Option to Extend Interest Payment Period.

(a) So long as no Event of Default has occurred and is continuing, the Company shall have the right to defer payments of interest on the Series A Debentures by extending the interest payment period of the Series A Debentures at any time from time to time for up to 20 consecutive quarterly interest periods (each such period an "Extended Interest Payment Period"), at the end of which period the Company shall pay all interest accrued at the interest rate specified in Section 2.05(a) herein compounded quarterly and unpaid thereon (together with Compounded Interest and Additional Interest, if any); PROVIDED THAT no Extended Interest Payment Period may extend beyond the Maturity Date or redemption date of the Series A Debentures.

(b) During any Extended Interest Payment Period, the Company shall not (i) declare or pay any dividends on, or redeem, purchase, acquire or make a distribution or liquidation payment with respect to, any of its capital stock, other than:

- (A) dividends or distributions in shares of, or options, warrants, rights to subscribe for or purchase shares of, the Common Stock;
- (B) any declaration of a dividend in connection with the implementation of a shareholders' rights plan, or the issuance of stock under any such plan in the future, or the redemption or repurchase of any such rights pursuant thereto;
- (C) as a result of a reclassification of the Company's capital stock or the exchange or the conversion of one class or series of the Company's capital stock for another class or series of the Company's capital stock;
- (D) the payment of accrued dividends and the purchase of fractional interests in shares of the Company's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged; or



(E) purchases of Common Stock related to the issuance of Common Stock or rights under any of the Company's benefit plans for its directors, officers, employees, any of the Company's dividend reinvestment plans or stock purchase plans, or any of the benefit plans of any of the Company's Affiliates for such Affiliates' directors, officers or employees;

(ii) make any payment of principal or of interest or premium, if any, on or repay, repurchase or redeem any debt security of the Company that, ranks PARI PASSU with or junior in interest to the Series A Debentures; or (iii) make any guarantee payments with respect to any guarantee by the Company of the debt securities of any Subsidiary of the Company (other than the Preferred Securities Guarantee) if such guarantee ranks PARI PASSU with or junior in interest to the Series A Debentures.

(c) Prior to the termination of any Extended Interest Payment Period, the Company may pay all or any portion of the interest accrued on the Series A Debentures on any Interest Payment Date to holders of record on the regular record date for such Interest Payment Date or from time to time further extend such Extended Interest Payment Period; PROVIDED that such Extended Interest Payment Period together with all such further extensions thereof shall not exceed 20 consecutive quarterly interest periods. Upon the termination of any Extended Interest Payment Period and the payment of all accrued and unpaid interest, including any Additional Interest and Compounded Interest, the Company may commence a new Extended Interest Payment Period, subject to the foregoing requirements. No interest shall be due and payable during an Extended Interest Payment Period, except at the end thereof. On the Interest Payment Date occurring at the end of the Extended Interest Payment Period, the Company shall pay all accrued and unpaid interest on the Series A Debentures, including any Additional Interest and Compounded Interest, to the holders of the Series A Debentures in whose names the Series A Debentures are registered in the Debenture Register

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(regardless of who the holders of record may have been on other dates during the Extended Interest Payment Period) on the record date for such Interest Payment Date.

#### SECTION 4.02. Notice of Extension of Interest Payment Period.

(a) So long as the Property Trustee is the legal owner and sole holder of record of the Series A Debentures, at the time the Company elects to begin an Extended Interest Payment Period, the Company shall give both the Property Trustee and the Trustee notice of its election to begin such Extended Interest Payment Period one Business Day prior to the earlier of (i) the next succeeding date on which Distributions (as defined in the Declaration of Trust) on the Preferred Securities are payable or (ii) the date Pogo Trust I is

required to give notice of the record date or the date such Distributions are payable to the New York Stock Exchange or other applicable self-regulatory organization or to holders of the Preferred Securities, but in any event not less than one Business Day prior to such record date.

(b) If as a result of a Dissolution Event Series A Debentures have been distributed to holders of Trust Securities, the Company shall give the holders of the Series A Debentures and the Trustee notice of its election to begin an Extended Interest Payment Period at least 10 Business Days prior to the earlier of (i) the next succeeding Interest Payment Date or (ii) the date the Company is required to give notice of the record or payment date of such related interest payment to the New York Stock Exchange (if the Series A Debentures are then listed thereon) or other applicable self-regulatory organization or to holders of the Series A Debentures.

(c) The quarter in which any notice is given pursuant to Section 4.02 shall not be counted as one of the quarters permitted in the maximum Extended Interest Payment Period permitted under this Article Four.

## ARTICLE FIVE

### Conversion of the Series A Debentures into Common Stock

#### SECTION 5.01. Conversion Rights.

Subject to and upon compliance with the provisions of this Article Five, the Series A Debentures are convertible, at the option of the holder, at any time prior to the Conversion Expiration Date, into fully paid and nonassessable shares of Common Stock of the Company at an initial conversion rate of 2.1053 shares of Common Stock for each \$50 in aggregate principal amount of Series A Debentures (equal to a conversion price of \$23.75 per share of Common Stock), subject to adjustment as described in this Article Five (as adjusted the "Conversion Price"). A holder of Series A Debentures may convert any portion of the principal amount of the Series A Debentures into that number of fully paid and nonassessable shares of Common Stock (calculated as to each conversion to the nearest 1/100th of a share)

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obtained by dividing the principal amount of the Series A Debentures to be converted by the Conversion Price.

#### SECTION 5.02. Conversion Procedures.

(a) NOTICE OF CONVERSION. In order to convert all or a portion of the Series A Debentures, the holder thereof shall deliver to the Property Trustee, as conversion agent or to such other agent appointed by the Company for such purposes (the "Conversion Agent") an irrevocable Notice of Conversion

setting forth the principal amount of Series A Debentures to be converted, together with the name or names, if other than the holder, in which the shares of Common Stock should be issued upon conversion and directing the Conversion Agent to convert such Series A Debentures, on behalf of such holder into Common Stock pursuant to the provisions of this Article Five, and, if such Series A Debentures are definitive Series A Debentures, surrender to the Conversion Agent the Series A Debentures to be converted, duly endorsed or assigned to the Company or in blank. In addition, a holder of Preferred Securities may exercise its right under the Declaration of Trust to convert such Preferred Securities into Common Stock by delivering to the Conversion Agent an irrevocable Notice of Conversion setting forth the information called for by the preceding sentence and directing the Conversion Agent (i) to exchange such Preferred Security for a portion of the Series A Debentures held by the Trust (at an exchange rate of \$50 principal amount of Series A Debentures for \$50 liquidation amount Preferred Security) and (ii) to immediately convert such Series A Debentures, on behalf of such holder, into Common Stock pursuant to the provisions of this Article Five and, if such Preferred Securities are in the form of Definitive Preferred Security Certificates, surrendering such Definitive Preferred Security Certificates, duly endorsed or assigned to the Company or in blank.

If a Notice of Conversion is delivered after the close of business on any regular record date and prior to the opening of business on the subsequent Interest Payment Date, the holder of record on the regular record date shall be entitled to receive the interest paid on the subsequent Interest Payment Date on the portion of Series A Debentures to be converted notwithstanding the conversion thereof prior to such Interest Payment Date. Except as otherwise provided in the immediately preceding sentence, in the case of any Debenture which is converted, interest whose Interest Payment Date is on or after the date of conversion of such Debenture shall not be payable, and the Company shall not make nor be required to make any other payment, adjustment or allowance with respect to accrued but unpaid interest on the Series A Debentures being converted, which shall be deemed to be paid in full.

(b) CONVERSION DATE. Each conversion shall be deemed to have been effected immediately prior to the close of business on the day on which the Notice of Conversion was received (the "Conversion Date") by the Conversion Agent from the Holder or from a holder of the Preferred Securities effecting a conversion thereof pursuant to its conversion rights under the Declaration of Trust, as the case may be. The Person or Persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the

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record holder or holders of such Common Stock as of the Conversion Date and such Person or Persons will cease to be a record holder or record holders of the Series A Debentures on that date.

(c) DELIVERY OF COMMON STOCK UPON CONVERSION. As promptly as

practicable on or after the Conversion Date, the Company shall issue and deliver at the office of the Conversion Agent, unless otherwise directed by the holder or holders of the Preferred Securities identified in the Notice of Conversion, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion, together with the Fractional Share Cash Payment Amount to the Person or Persons entitled to receive the same. The Conversion Agent shall deliver such certificate or certificates to such person or Persons.

(d) SATISFACTION OF OBLIGATIONS UNDER THE SERIES A DEBENTURES. The Company's delivery upon conversion of the fixed number of shares of Common Stock into which the Series A Debentures are convertible (together with the cash payment, if any, in lieu of fractional shares) shall be deemed to satisfy the Company's obligation to pay the principal amount at maturity of the portion of Series A Debentures so converted and any unpaid interest (including Additional Interest and Compounded Interest, if any) accrued on such Series A Debentures at the time of such conversion.

(e) CASH IN LIEU OF FRACTIONAL SHARES. No fractional shares of Common Stock will be issued as a result of conversion, but in lieu thereof, the Company shall pay to the Conversion Agent a cash adjustment in an amount equal to the same fraction of the Closing Price with respect to such fractional interest on the Conversion Date (the "Fractional Share Cash Payment Amount"), or, if such day is not a day on which any securities are traded on the national securities exchange or quotation system used to determine the Closing Price, on the next such trading day, and the Conversion Agent in turn will make such payment, if any, to the holder of the Series A Debentures or the holder of the Preferred Securities so converted.

(f) ISSUANCE OF NEW DEBENTURES UPON PARTIAL CONVERSIONS. In the event of the conversion of any Debenture in part only, a new Debenture or Series A Debentures for the unconverted portion thereof will be issued in the name of the holder thereof upon the cancellation of the Debenture converted in part in accordance with Section 2.04.

(g) ROLE AND AUTHORITY OF THE CONVERSION AGENT. In effecting the conversion transactions described in this Section, the Conversion Agent is acting as agent of the holders of Preferred Securities (in the exchange of Preferred Securities for Series A Debentures) and as agent of the holders of Series A Debentures (in the conversion of Series A Debentures into Common Stock), as the case may be, directing it to effect such conversion transactions. The Conversion Agent is hereby authorized (i) to exchange Series A Debentures held by the Trust from time to time for Preferred Securities in connection with the conversion of such Preferred Securities in accordance with this Article Five and (ii) to convert all or a portion of the Series A Debentures into Common Stock and thereupon to deliver such shares of Common

Stock in accordance with the provisions of this Article Five and to deliver to the Trust a new Debenture or Series A Debentures for any resulting unconverted principal amount.

(h) COMMON STOCK TO BE ISSUED UPON CONVERSION OF SERIES A DEBENTURES. The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of the Series A Debentures, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the Series A Debentures then outstanding. Notwithstanding the foregoing, the Company shall be entitled to deliver upon conversion of Series A Debentures shares of Common Stock reacquired and held in the treasury of the Company (in lieu of the issuance of authorized and unissued shares of Common Stock) so long as any such treasury shares are free and clear of all liens, charges, security interests or encumbrances. Whenever the Company issues shares of Common Stock upon conversion of Series A Debentures and the Company has in effect at such time a share purchase rights agreement under which holders of Common Stock are issued rights ("Rights") entitling the holders under certain circumstances to purchase an additional share or shares of Common Stock or other capital stock of the Company, the Company will issue, together with each such share of Common Stock, such number of Rights (which number may be a fraction) as shall at that time be issuable with a share of Common Stock pursuant to such share purchase rights agreement. Any shares of Common Stock issued upon conversion of the Series A Debentures shall be duly authorized, validly issued and fully paid and nonassessable. The Conversion Agent shall deliver the shares of Common Stock received upon conversion of the Series A Debentures to the converting holder free and clear of all liens, charges, security interests and encumbrances, except for United States withholding taxes. The Company shall use its best efforts to obtain and keep in force such governmental or regulatory permits or other authorizations as may be required by law, and shall comply with all applicable requirements as to registration or qualification of the Common Stock (and all requirements to list the Common Stock issuable upon conversion of Series A Debentures that are at the time applicable), in order to enable the Company to lawfully issue Common Stock upon conversion of the Series A Debentures and to lawfully deliver the Common Stock to each holder upon conversion of the Series A Debentures.

(i) PAYMENT OF TAXES. The Company shall pay any and all taxes that may be payable in respect of the issue or delivery of shares of Common Stock excluding United States withholding taxes on conversion of Series A Debentures. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the Series A Debentures so converted were registered, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Conversion Agent the amount of any such tax, or has established to the satisfaction of the Conversion Agent that such tax has been paid.

## SECTION 5.03. Conversion Price Adjustments.

The Conversion Price shall be subject to adjustment (without duplication) from time to time as follows:

(a) ADJUSTMENT UPON PAYMENT OF STOCK DIVIDENDS OR SUBDIVISIONS, COMBINATIONS OR RECLASSIFICATIONS OF COMMON STOCK. In case the Company shall, while any of the Series A Debentures are outstanding, (i) pay a dividend or make a distribution with respect to its Common Stock in shares of Common Stock, (ii) subdivide its outstanding shares of Common Stock, (iii) combine its outstanding shares of Common Stock into a smaller number of shares or (iv) issue by reclassification of its shares of Common Stock any shares of capital stock of the Company, the Conversion Price in effect immediately prior to such action shall be adjusted by multiplying it by a fraction, the numerator of which is equal to the total number of outstanding shares of Common Stock immediately prior to such dividend, distribution, subdivision, combination or reclassification, and the denominator of which is equal to the total number of outstanding shares of Common Stock immediately following such dividend, distribution, subdivision, combination or reclassification.

An adjustment made pursuant to this subsection (a) shall become effective immediately after the record date in the case of a dividend or other distribution and shall become effective immediately after the effective date in case of a subdivision, combination or reclassification (or immediately after the record date if a record date shall have been established for such event). If, as a result of an adjustment made pursuant to this subsection (a), the holder of any Debenture thereafter surrendered for conversion shall become entitled to receive shares of two or more classes or series of capital stock of the Company, the Board of Directors (whose determination shall be conclusive and shall be described in a Board Resolution filed with the Trustee) shall determine the allocation of the adjusted Conversion Price between or among shares of such classes or series of capital stock. In the event that such dividend, distribution, subdivision, combination or issuance is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such record date had not been fixed.

(b) ADJUSTMENT UPON ISSUANCE OF RIGHTS OR WARRANTS TO ACQUIRE COMMON STOCK AT PRICES BELOW MARKET VALUE. In case the Company shall, while any of the Series A Debentures are outstanding, issue rights or warrants to all holders of its Common Stock entitling them (for a period expiring within 45 days after the record date mentioned below) to subscribe for or purchase shares of Common Stock at a price per share less than the Closing Price per share of Common Stock on the record date mentioned below, the Conversion Price for the Series A Debentures shall be adjusted so that the Conversion Price shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the date of issuance of such rights or warrants by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding on the date



fixed for the determination of stockholders entitled to receive such rights or warrants plus the number of shares which the aggregate offering price

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of the total number of shares so offered for subscription or purchase would purchase at such Closing Price, and the denominator of which shall be the number of shares of Common Stock outstanding on the date fixed for the determination of stockholders entitled to receive such rights or warrants plus the number of additional shares of Common Stock offered for subscription or purchase. Such adjustment shall become effective immediately after the record date for the determination of stockholders entitled to receive such rights or warrants. For the purposes of this subsection, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company.

The Company agrees not to issue any rights or warrants in respect of shares of Common Stock held in the treasury of the Company.

In case any rights or warrants referred to in this subsection in respect of which an adjustment shall have been made shall expire unexercised within 45 days after the same shall have been distributed or issued by the Company, the Conversion Price shall be readjusted at the time of such expiration to the Conversion Price that would have been in effect if no adjustment had been made on account of the distribution or issuance of such expired rights or warrants.

(c) ADJUSTMENT UPON DISTRIBUTION OF EVIDENCES OF INDEBTEDNESS, CAPITAL STOCK, CASH OR ASSETS. Subject to the last sentence of this subparagraph (c), in case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its indebtedness, shares of any class or series of capital stock, cash or assets (including securities, but excluding (i) any rights or warrants referred to in subparagraph (b), (ii) any dividend or distribution paid exclusively in cash and (iii) any dividend or distribution referred to in subparagraph (a) of this Section 5.03), the Conversion Price shall be reduced so that the Conversion Price shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the effectiveness of the Conversion Price reduction contemplated by this subparagraph (c) by a fraction, the numerator of which shall be the Closing Price per share of the Common Stock on the date fixed for the payment of such distribution (the "Reference Date") less the fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a resolution of the Board of Directors filed with the Trustee), on the Reference Date, of the portion of the evidences of indebtedness, shares of capital stock, cash and assets so distributed applicable to one share of Common Stock, and the denominator of which shall be such Closing Price per share of the Common Stock, such reduction to become effective immediately



prior to the opening of business on the day following the Reference Date.

In the event that such dividend or distribution is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such dividend or distribution had not occurred. For purposes of this subparagraph (c), any dividend or distribution that includes shares of Common Stock or rights or warrants to subscribe for or purchase shares of Common Stock shall be deemed instead to be (i) a dividend or

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distribution of the evidences of indebtedness, shares of capital stock, cash or assets other than such shares of Common Stock or such rights or warrants (making any Conversion Price reduction required by this subparagraph (c)) immediately followed by (ii) a dividend or distribution of such shares of Common Stock or such rights or warrants (making any further conversion price reduction required by subparagraph (a) or (b)), except (A) the Reference Date of such dividend or distribution as defined in this subparagraph shall be substituted as (x) "the record date in the case of a dividend or other distribution," and (y) "the record date for the determination of stockholders entitled to receive such rights or warrants" and (z) "the date fixed for such determination" within the meaning of subparagraphs (a) and (b) and (B) any shares of Common Stock included in such dividend or distribution shall not be deemed outstanding for purposes of computing any adjustment of the conversion price in subparagraph (a).

(d) ADJUSTMENT UPON ALL-CASH DISTRIBUTIONS. In case the Company shall pay or make a dividend or other distribution on its Common Stock exclusively in cash (excluding (i) any cash dividends on Common Stock to the extent that the aggregate cash dividends per share of Common Stock in any consecutive 12-month period do not exceed the greater of (x) the amount per share of Common Stock of the cash dividends paid on Common Stock in the immediately preceding 12-month period, to the extent that such dividends for the immediately preceding 12-month period did not require an adjustment of the Conversion Price, and (y) 12.5% of the average of the daily Closing Prices of the Common Stock for the ten consecutive trading days immediately prior to the date of declaration of such dividend, and (ii) a redemption of any Rights issued under a rights agreement), the Conversion Price shall be reduced so that the Conversion Price shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the effectiveness of the Conversion Price reduction contemplated by this subparagraph (d) by a fraction, the numerator of which shall be the Closing Price per share of the Common Stock on the date fixed for the payment of such distribution less the amount of cash so distributed (excluding that portion of such distribution that does not exceed 12.5% of the Closing Price per share, determined as provided above) applicable to one share of Common Stock and the denominator of which shall be such Closing Price per share of the Common Stock, such reduction to become effective immediately prior to the opening of business on the day following the date fixed for the payment of such distribution; PROVIDED, HOWEVER, that in the event the portion of the

cash so distributed applicable to one share of Common Stock is equal to or greater than the Closing Price per share of the Common Stock on the record date mentioned above (excluding that portion of such distribution that does not exceed 12.5% of the Closing Price per share, determined as provided above), in lieu of the foregoing adjustment, adequate provision shall be made so that each holder of Series A Debentures shall have the right to receive upon conversion the amount of cash such holder would have received had such holder converted each of the Series A Debentures immediately prior to the record date for the distribution of the cash (less that portion of such distribution that does not exceed 12.5% of the Closing Price per share, determined as provided above). In the event that such dividend or distribution is not so paid

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or made, the Conversion Price shall again be adjusted to be the conversion price which would then be in effect if such record date had not been fixed.

(e) ADJUSTMENT UPON A TENDER OR EXCHANGE OFFER. In case a tender or exchange offer (other than an odd-lot offer) made by the Company or any Subsidiary of the Company for all or any portion of the Common Stock shall expire and such tender or exchange offer shall involve the payment by the Company or such Subsidiary of consideration per share of Common Stock having a fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a resolution of the Board of Directors) at the last time (the "Expiration Time") tenders or exchanges may be made pursuant to such tender or exchange offer (as it shall have been amended) that exceeds 110% of the Closing Price of the Common Stock on the trading day next succeeding the Expiration Time, the Conversion Price shall be reduced so that the Conversion Price shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the effectiveness of the Conversion Price reduction contemplated by this subparagraph (e) by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding (including any tendered or exchanged shares) at the Expiration Time (including the Purchased Shares) (as defined below) multiplied by the Closing Price per share of the Common Stock on the trading day next succeeding the Expiration Time and the denominator of which shall be the sum of (x) the fair market value (determined as aforesaid) of the aggregate consideration payable to stockholders based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of all shares validly tendered or exchanged and not withdrawn as of the Expiration Time (the shares deemed so accepted, up to any such maximum, being referred to as the "Purchased Shares") (excluding that portion of such consideration in excess of the Closing Price per share that does not exceed 110% of the Closing Price per share) and (y) the product of the number of shares of Common Stock outstanding (less any Purchased Shares) at the Expiration Time and the Closing Price per share of the Common Stock on the trading day next succeeding the Expiration Time, such reduction to become effective immediately prior to the opening of business on the day following

the Expiration Time. In the event that such tender or exchange offer is not so made, the Conversion Price shall again be adjusted to be the Conversion Price which would then be in effect if such record date had not been fixed.

(f) COMPANY'S OPTION TO REDUCE THE CONVERSION PRICE. The Company shall have the right to reduce from time to time the Conversion Price by any amount selected by the Company for any period of at least 20 Business Days, provided, that the Company shall give at least 15 days' notice of such reduction to the Trustee and the holders of the Series A Debentures. The Company may, at its option, make such reductions in the Conversion Price, in addition to those set forth above, as the Board of Directors deems advisable to avoid or diminish any income tax to holders of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to acquire stock or from any event treated as such for tax purposes or for any other reasons.

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(g) LIMITATION ON ADJUSTMENTS. If any action would require adjustment of the Conversion Price pursuant to more than one of the anti-dilution provisions described above, only one adjustment shall be made and such adjustment shall be the amount of adjustment that has the highest absolute value to the holders of the Series A Debentures. No adjustment in the Conversion Price will be required unless such adjustment would require an increase or decrease of at least 1% of the Conversion Price, but any adjustment that would otherwise be required to be made shall be carried forward and taken into account in any subsequent adjustment.

#### SECTION 5.04. Fundamental Change.

(a) In the event that the Company is a party to any transaction, including, without limitation, a merger (other than a merger that does not result in a reclassification, conversion, exchange or cancellation of Common Stock), consolidation, sale of all or substantially all of the assets of the Company, recapitalization or reclassification of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value or as a result of a subdivision or combination of Common Stock) or any compulsory share exchange (each of the foregoing being referred to as a "Transaction"), in each case, as a result of which shares of Common Stock shall be converted into the right to receive, or shall be exchanged for, (i) in the case of any Transaction other than a Transaction involving a Common Stock Fundamental Change (and subject to funds being legally available for such purpose under applicable law at the time of such conversion), securities, cash or other property, each Debenture shall thereafter be convertible into the kind and, in the case of a Transaction which does not involve a Fundamental Change, amount of securities, cash and other property receivable upon the consummation of such Transaction by a holder of that number of shares of Common Stock into which a Debenture was convertible immediately prior to such Transaction, or (ii) in the case of a Transaction involving a Common Stock Fundamental Change, common

stock, each Debenture shall thereafter be convertible (in the manner described herein) into common stock of the kind received by holders of Common Stock (but in each case after giving effect to any adjustment discussed in paragraphs (b) and (c) below relating to a Fundamental Change if such Transaction constitutes a Fundamental Change). The holders of Series A Debentures or Preferred Securities will have no voting rights with respect to any Transaction described in this section.

(b) If any Fundamental Change occurs, then the Conversion Price in effect will be adjusted immediately after such Fundamental Change as described in paragraph (c) below. In addition, in the event of a Common Stock Fundamental Change, each Debenture shall be convertible solely into common stock of the kind received by holders of Common Stock as a result of such Common Stock Fundamental Change.

(c) The Conversion Price in the case of any Transaction involving a Fundamental Change will be adjusted immediately after such Fundamental Change such that:

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(1) in the case of a Non-Stock Fundamental Change, the Conversion Price of the Series A Debentures will thereupon become the lower of (A) the Conversion Price in effect immediately prior to such Non-Stock Fundamental Change, but after giving effect to any other prior adjustments, and (B) the result obtained by multiplying the greater of the Applicable Price or the then applicable Reference Market Price by a fraction, the numerator of which shall be \$50 and the denominator of which shall be (x) the amount of the Optional Redemption Price for the Debenture if the redemption date were the date of such Non-Stock Fundamental Change (or, for the period commencing on the first date of original issuance of the Series A Debentures and through May 31, 2000, and the twelve-month periods commencing June 1, 2000 and June 1, 2001, the product of 106.50%, 105.85% and 105.20%, respectively, multiplied by \$50) plus (y) any then-accrued and unpaid interest on the Series A Debentures; and

(2) in the case of a Common Stock Fundamental Change, the Conversion Price of the Series A Debentures in effect immediately prior to such Common Stock Fundamental Change, but after giving effect to any other prior adjustments, will thereupon be adjusted by multiplying such Conversion Price by a fraction, the numerator of which shall be the Purchaser Stock Price and the denominator shall be the Applicable Price; provided, however, that in the event of a Common Stock Fundamental Change in which (A) 100% of the value of the consideration received by a holder of Common Stock is common stock of the successor, acquirer, or other third party (and cash, if any, is paid only with respect to any fractional interests in such common

stock resulting from such Common Stock Fundamental Change) and (B) all of the Common Stock will have been exchanged for, converted into, or acquired for common stock (and cash with respect to fractional interests) of the successor, acquirer, or other third party, the Conversion Price of the Series A Debentures in effect immediately prior to such Common Stock Fundamental Change will thereupon be adjusted by multiplying such Conversion Price by a fraction, the numerator of which shall be one and the denominator of which shall be the number of shares of common stock of the successor, acquirer, or other third party received by a holder of one share of Common Stock as a result of such Common Stock Fundamental Change.

SECTION 5.05. Notice of Adjustments of Conversion Price.

Whenever the Conversion Price is adjusted as herein provided:

(a) the Company shall compute the adjusted conversion price and shall prepare a certificate signed by the Chief Financial Officer and the Controller of the Company setting forth the adjusted conversion price and showing in reasonable detail the facts upon which such adjustment is based, and such certificate shall forthwith be filed with the Trustee, the Conversion Agent and the Debenture Registrar; and

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(b) a notice stating the Conversion Price has been adjusted and setting forth the adjusted Conversion Price shall as soon as practicable be mailed by the Company to all record holders of the Series A Debentures at their last addresses as they appear upon the Debenture Register.

SECTION 5.06. Dividend or Interest Reinvestment Plans.

Notwithstanding anything to the contrary in this Article Five, no adjustment of the Conversion Price will be made upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company. The investment of additional optional amounts in shares of Common Stock under any such plan, and the issuance of any shares of Common Stock or options or rights to purchase such shares pursuant to any employee benefit plan or program of the Company or any of its Subsidiaries or joint ventures currently existing or adopted subsequent to May 26, 1999 or pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the date the Series A Debentures were first issued, shall not be deemed to constitute an issuance of Common Stock or exercisable, exchangeable or convertible securities by the Company to which any of the adjustment provisions described above applies. There shall also be no adjustment of the Conversion Price in case of the issuance of any stock (or securities convertible into or exchangeable for stock) of the Company except as specifically described in this Article Five.

SECTION 5.07. Trustee Not Responsible for Determining Conversion Price or Adjustments.

Neither the Trustee nor any Conversion Agent shall at any time be under any duty or responsibility to any holder of any Debenture or to any holder of a Preferred Security to determine whether any facts exist which may require any adjustment of the Conversion Price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same or whether a supplemental indenture need be entered into. Neither the Trustee nor any Conversion Agent shall be accountable with respect to the validity or value (or the kind of account) of any shares of Common Stock or of any securities or property, which may at any time be issued or delivered upon the conversion of any Debenture; and neither the Trustee nor any Conversion Agent makes any representation with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property upon the surrender of any Debenture for the purpose of conversion, or, except as expressly herein provided, to comply with any of the covenants of the Company contained in this Article Five.

ARTICLE SIX

Covenants Applicable to the Series A Debentures

SECTION 6.01. Prohibited Actions While Preferred Securities are Outstanding. So long as any Preferred Securities issued by Pogo Trust I remain outstanding, the Company shall not (i) declare or pay any dividends on, or redeem, purchase, acquire or make a distribution or liquidation payment with respect to, any of its capital stock (other than (a) dividends or distributions in shares of, or options, warrants, rights to subscribe for or purchase shares of, common stock of the Company, (b) any declaration of a dividend in connection with the implementation of a stockholders' rights plan, or the issuance of stock under any such plan in the future, or the redemption or repurchase of any such rights pursuant thereto, (c) as a result of a reclassification of the Company's capital stock or the exchange or the conversion of one class or series of the Company's capital stock for another class or series of the Company's capital stock, (d) the payment of accrued dividends and the purchase of fractional interests in shares of the Company's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, or (e) purchases of the Company's common stock related to the issuance of the Company's common stock or rights under any of the Company's benefit plans for its directors, officers, employees, any of the Company's



dividend reinvestment plans or stock purchase plans, or any of the benefit plans of any of the Company's Affiliates for such Affiliates' directors, officers or employees), (ii) make any payment of principal or of interest or premium, if any, on or repay, repurchase or redeem any debt security of the Company that, ranks PARI PASSU with or junior in interest to the Series A Debentures or (iii) make any guarantee payments with respect to any guarantee by the Company of the debt securities of any Subsidiary of the Company (other than pursuant to the Preferred Securities Guarantee or a substantially similar guarantee agreement relating to a series of trust preferred securities substantially similar to the Preferred Securities) if such guarantee ranks PARI PASSU with or junior in interest to the Series A Debentures, if at such time (x) the Company shall be in default with respect to its Guarantee Payments (as defined in the Preferred Securities Guarantee) or other payment obligations under the Preferred Securities Guarantee, (y) there shall have occurred any Event of Default with respect to the Series A Debentures or (z) the Company shall have given notice of its election to defer payments of interest on the Series A Debentures by extending the interest payment period in accordance with Article Four hereof.

SECTION 6.02. Listing on the NYSE. In connection with the distribution of the Series A Debentures to the holders of the Preferred Securities upon a Dissolution Event, the Company will use its best efforts to list such Series A Debentures on the New York Stock Exchange or on such other exchange or quotation system as the Preferred Securities are then listed and traded.

SECTION 6.03. Compliance With the Declaration of Trust. The Company covenants and agrees for the benefit of the holders of the Preferred Securities to comply fully with all

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of its obligations and agreements under the Declaration of Trust, including, without limitation, its obligations under Article 4 thereof.

SECTION 6.04. Covenants With Respect to Pogo Trust I. Prior to the distribution of Series A Debentures to the holders of Preferred Securities upon a Dissolution Event, the Company covenants and agrees for the benefit of the holders of the Preferred Securities (i) to remain the sole direct or indirect owner of all of the outstanding Common Securities and not to cause or permit the Common Securities to be transferred except as permitted by the Declaration of Trust, provided that any permitted successor of the Company under the Indenture may succeed to the Company's ownership of the Common Securities, and (ii) use reasonable efforts to cause Pogo Trust I to continue to be treated as a grantor trust for United States federal income tax purposes, except in connection with a Dissolution Event.

## ARTICLE SEVEN



SECTION 7.01. The Series A Debentures and the Trustee's Certificate of Authentication to be endorsed thereon are to be substantially in the following forms:

(FORM OF FACE OF SERIES A DEBENTURE)

[IF THE SERIES A DEBENTURE IS TO BE A GLOBAL DEBENTURE, INSERT - This Debenture is a Global Debenture within the meaning of the Indenture hereinafter referred to and is registered in the name of a Depository or a nominee of a Depository. This Debenture is exchangeable for Debentures registered in the name of a person other than the Depository or its nominee only in the limited circumstances described in the Indenture, and no transfer of this Debenture (other than a transfer of this Debenture as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository) may be registered except in limited circumstances.

Unless this Debenture is presented by an authorized representative to The Depository Trust Company (55 Water Street, New York, New York) to the issuer or its agent for registration of transfer, exchange or payment, and any Debenture issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment hereon is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY A PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.]

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No. §

CUSIP NO. 730448AM9

POGO PRODUCING COMPANY

6 1/2% JUNIOR SUBORDINATED CONVERTIBLE DEBENTURE, SERIES A DUE 2029

POGO PRODUCING COMPANY, a corporation duly organized and existing under the laws of the State of Delaware (herein referred to as the "Company", which term includes any successor corporation under the Indenture hereinafter referred to), for value received, hereby promises to pay to \_\_\_\_\_, or registered assigns, the principal sum of \_\_\_\_\_ Dollars on June 1, 2029, PROVIDED, if a Tax Event occurs, then the Company will have the right (a) prior to the dissolution of Pogo Trust I, to shorten the Maturity Date of this series of Debentures to the minimum extent required, but not earlier than June 2, 2014, or (b) to direct the Property Trustee to dissolve Pogo Trust I (if not previously dissolved) and shorten the Maturity Date of this series of

Debentures to the minimum extent required, but not earlier than June 2, 2014, in each case such that in the opinion of counsel to the Company, experienced in such matters, after shortening the Maturity Date, interest paid on this series of Debentures will be deductible for federal income tax purposes, and to pay interest on said principal sum from June 2, 1999 or from the most recent interest payment date (each such date, an "Interest Payment Date") to which interest has been paid or duly provided for, quarterly in arrears on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1999 at the rate of 6 1/2% per annum plus Additional Interest and Compounded Interest, if any, until the principal hereof shall have become due and payable, and on any overdue principal and premium, if any.

So long as no Event of Default has occurred and is continuing, the Company shall have the right to defer payments of interest on this series of Debentures by extending the interest payment period of this series of Debentures at any time from time to time for up to 20 consecutive quarterly interest periods (each such period an "Extended Interest Payment Period"), at the end of which period the Company shall pay all interest accrued and unpaid thereon (together with Compounded Interest and Additional Interest, if any); PROVIDED THAT no Extended Interest Payment Period may extend beyond the Maturity Date or redemption date of this series of Debentures. Prior to the termination of any Extended Interest Payment Period, the Company may pay all or any portion of the interest accrued on this series of Debentures on any Interest Payment Date to holders of record on the regular record date for such Interest Payment Date or prepay at any time all or any portion of the interest accrued during an Extension Period or from time to time further extend such Extended Interest Payment Period; PROVIDED THAT such Extended Interest Payment Period together with all such further extensions thereof shall not exceed 20 consecutive quarterly interest periods or extend beyond the Maturity Date or redemption date of this series of Debentures. Upon the termination of any Extended Interest Payment Period and the payment of all accrued and

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unpaid interest, including any Additional Interest and Compounded Interest, the Company may commence a new Extended Interest Payment Period, subject to the foregoing requirements. No interest shall be due and payable during an Extended Interest Payment Period, except at the end thereof. On the Interest Payment Date occurring at the end of the Extended Interest Payment Period, the Company shall pay all accrued and unpaid interest on this series of Debentures, including any Additional Interest and Compounded Interest, to the holders of this series of Debentures in whose names this series of Debentures are registered in the Debenture Register (regardless of who the holders of record may have been on other dates during the Extended Interest Payment Period) on the record date for such Interest Payment Date.

The amount of interest payable on any Interest Payment Date shall be computed on the basis of a 360-day year of twelve 30-day months, and for any

period shorter than a full quarterly interest period for which interest is computed, interest shall be computed on the basis of the actual number of days elapsed per 90-day quarter. In the event that any date on which interest is payable on this series of Debentures is not a Business Day, then payment of interest payable on such date shall be made on the next succeeding day which is a Business Day (and without any interest or other payment in respect of any such delay), except that, if such Business Day is in the next succeeding calendar year, such payment shall be made on the immediately preceding Business Day, in each case with the same force and effect as if made on the date such payment was originally payable. The interest installment so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in the Indenture, be paid to the person in whose name this Debenture (or one or more Predecessor Debentures, as defined in said Indenture) is registered at the close of business on the regular record date for such interest installment, [IF POGO TRUST I OR ITS PROPERTY TRUSTEE IS THE HOLDER OF RECORD OF THIS DEBENTURE -- which shall be the close of business on the Business Day next preceding such Interest Payment Date, provided if the Preferred Securities of Pogo Trust I are no longer in book-entry only form, the regular record dates shall be the close of business on the fifteenth (15th) day of the month in which such Interest Payment Date occurs] [IF PURSUANT TO THE PROVISIONS OF SECTION 2.11(c) OF THE INDENTURE THIS series of Debentures IS NOT REPRESENTED BY A GLOBAL DEBENTURE -- which shall be the close of business on the fifteenth (15th) day of the month in which such Interest Payment Date occurs.] Any such interest installment not punctually paid or duly provided for shall forthwith cease to be payable to the registered holders on such regular record date, and shall instead be paid to the person in whose name this Debenture (or one or more Predecessor Debentures) is registered at the close of business on a special record date to be fixed by the Trustee for the payment of such defaulted interest, notice whereof shall be given to the registered holders of this series of Debentures not less than 10 days prior to such special record date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange or quotation system on which the Debentures of this series may be listed or traded, and upon such notice as may be required by such exchange or quotation system, all as more fully provided in Section 2.03 of the Indenture. The principal of and the interest on this

Debenture shall be payable at the Corporate Trust Office of the Trustee, in any coin or currency of the United States of America which at the time of payment is legal tender for payment of public and private debts; PROVIDED, HOWEVER, that payment of interest may be made at the option of the Company by check mailed to the registered holder at such addresses as shall appear in the Debenture Register and that the payment of principal will only be made upon the surrender of this Debenture to the Trustee. Notwithstanding the foregoing, so long as the owner and record holder of this Debenture is the Property Trustee (as defined in the Indenture), the payment of the principal of and interest (including Additional Interest and Compounded Interest, if any) on this Debenture will be

made by the Company in immediately available funds on the payment date therefor at such place and to the Property Account (as defined in the Indenture) established and maintained by the Property Trustee pursuant to the Declaration of Trust (as defined in the Indenture).

The indebtedness evidenced by this Debenture is, to the extent provided in the Indenture, subordinate and junior in right of payment to the prior payment in full of all Senior Debt (as defined in the Indenture), and this Debenture is issued subject to the provisions of the Indenture with respect thereto. Each holder of this Debenture, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to acknowledge or effectuate the subordination so provided and (c) appoints the Trustee his attorney-in-fact for any and all such purposes. Each holder hereof, by his acceptance hereof, hereby waives all notice of the acceptance of the subordination provisions contained herein and in the Indenture by each holder of Senior Debt, whether now outstanding or hereafter incurred, and waives reliance by each such holder upon said provisions.

This Debenture shall not be entitled to any benefit under the Indenture hereinafter referred to, be valid or become obligatory for any purpose until the Certificate of Authentication hereon shall have been signed by or on behalf of the Trustee.

The provisions of this Debenture are continued on the reverse side hereof and such continued provisions shall for all purposes have the same effect as though fully set forth at this place.

IN WITNESS WHEREOF, the Company has caused this Instrument to be executed.

Dated:  
-----

POGO PRODUCING COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Attest:

By:

-----  
Name:  
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Debentures of the series of Debentures described in the within-mentioned Indenture.

-----  
as Trustee

-----  
or as Authentication Agent

By

By

-----  
Authorized Signatory

-----  
Authorized Signatory

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(FORM OF REVERSE OF SERIES A DEBENTURE)

This Debenture is one of a duly authorized series of Debentures of the Company (herein sometimes referred to as the "Debentures"), specified in the Indenture, all issued or to be issued in one or more series under and pursuant to an Indenture dated as of June 1, 1999 duly executed and delivered between the Company and Wilmington Trust Company, a Delaware banking corporation, as Trustee (herein referred to as the "Trustee"), as supplemented by the Supplemental Indenture No. 1 dated as of June 1, 1999 ("Supplemental Indenture No. 1") between the Company and the Trustee (said Indenture as so supplemented being hereinafter referred to as the "Indenture"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the holders of the Debentures, and, to the extent specifically set forth in the Indenture, the holders of Senior Debt and Preferred Securities. By the terms of the Indenture, the Debentures are issuable in series which may vary as to amount, date of maturity, rate of interest and in other respects as in the Indenture provided. This series of Debentures is designated the 6 1/2% Junior Subordinated Convertible Debentures, Series A due 2029 and is limited in aggregate principal amount as specified in said Supplemental Indenture No. 1.

Except as provided in the next paragraph, the Debentures of this series shall not be redeemed by the Company prior to June 1, 2002. The Company shall have the right to redeem this Debenture at the option of the Company, in

whole or in part, at any time from time to time on or after June 1, 2002 (an "Optional Redemption"), upon not less than 30 nor more than 60 days' notice to the holders of the Debentures of this series, during the twelve-month periods commencing June 1 in each of the following years at the indicated redemption price (expressed as a percentage of the principal amount of the Series A Debentures being redeemed), together with any accrued but unpaid interest thereon, including Compounded Interest and Additional Interest, if any, to, but excluding, the date of such redemption (the "Optional Redemption Price"):

<TABLE>  
<CAPTION>

Redemption Price		Redemption Price	
-----		-----	
Year	(% of principal amount)	Year	(% of principal amount)
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<S>	<C>	<C>	<C>
2002 . . . . .	104.55%	2006 . . . . .	101.95%
2003 . . . . .	103.90%	2007 . . . . .	101.30%
2004 . . . . .	103.25%	2008 . . . . .	100.65%
2005 . . . . .	102.60%	2009 and thereafter .	100%

</TABLE>

If the Debentures of this series are redeemed on any Interest Payment Date, accrued and unpaid interest shall be payable to holders of record on the relevant record date.

The Company shall not redeem any Debentures of this series unless all accrued and unpaid interest thereon, including Compounded Interest and Additional Interest, if any, has been paid for all quarterly interest periods terminating on or prior to the date of notice of redemption.

If a Special Event shall occur and be continuing, this Series A Debenture shall be exchangeable for Preferred Securities in accordance with Section 3.05 of the Indenture or, in certain circumstances, redeemable by the Company in accordance with Section 3.02 of the Indenture.

If a Tax Event shall occur or be continuing, the Company shall have the right at any time to redeem the Debentures of this series in whole, but not in part, for cash at the Tax Redemption Price, together with any accrued unpaid interest thereon, including Compounded Interest and Additional Interest, if any, to but excluding the date of such redemption within 90 days following the occurrence of such Tax Event.

"Tax Event" means that the Company and the Regular Trustees shall have received an opinion of nationally recognized independent counsel experienced in such matters to the effect that on or after May 26, 1999 as a result of (a) any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority thereof or therein, (b) any amendment to, or change in, an interpretation or application of any such laws or regulations by any legislative body, court, governmental agency or regulatory authority (including the enactment of any legislation or the publication of any judicial decision or regulatory determination), (c) any interpretation or pronouncement by any legislative body, court, governmental agency or regulatory authority that provides for a position with respect to such laws or regulations that differs from the theretofore generally accepted position or (d) any action taken by any governmental agency or regulatory authority, which amendment or change is enacted, promulgated, issued or announced or which interpretation or pronouncement is issued or announced or which action is taken, in each case on or after May 26, 1999, there is more than a remote risk that (i) Pogo Trust I is, or will be within 90 days of the date thereof, subject to federal income tax with respect to income accrued or received on the Debentures of this series, (ii) Pogo Trust I is, or will be within 90 days of the date thereof, subject to more than a de minimis amount of taxes, duties or other governmental charges or (iii) interest payable by the Company to Pogo Trust I on the Debentures of this series is not, or within 90 days of the date thereof will not be, deductible by the Company for federal income tax purposes;

"Tax Redemption Price" means with respect to each \$50 principal amount of Series A Debentures (i) if the Series A Debentures are redeemed as a result of the occurrence of a Tax Event prior to June 1, 2002, the greater of (a) the total principal amount of such Series A Debenture or the liquidation amount of the Preferred Securities, (b) the average of the highest and lowest reported sale prices, regular way, of the Preferred Securities over the five trading days immediately prior to the day on which notice of such redemption is given, and (c) the average of the highest and lowest reported sale prices, regular way, of Preferred Securities on the trading day immediately prior to the day on which notice of such redemption is given, or (ii) if the Series A Debentures are redeemed as a result of the occurrence of a Tax Event on or after June 1, 2002, the principal amount of such Series A Debentures. For purposes of clauses (b) and (c) above, if the Series A Debentures have been distributed in exchange for Preferred Securities, the references to sales prices shall be deemed to refer to the sales price, of the Series A Debentures.

If the Debentures of this series are only partially redeemed by the Company pursuant to an Optional Redemption, the Debentures shall be redeemed pro rata or by lot or in some other equitable manner determined by the Trustee;



provided if, at the time of redemption, the Debentures of this series are registered as a Global Debenture, the Depository shall determine the principal amount of such Debentures of this series held by each holder of Debentures to be redeemed in accordance with its customary procedures. Notwithstanding the foregoing, if a partial redemption of the Debentures of this series would result in the delisting of the Preferred Securities by any national securities exchange or other organization on which the Preferred Securities are then listed or traded, the Company shall not be permitted to effect such partial redemption and will only redeem the Debentures of this series in whole.

In the event of redemption of this Debenture in part only, a new Debenture or Debentures of this series for unredeemed portion hereof will be issued in the name of the holder hereof upon the cancellation hereof.

Subject to the terms and conditions set forth in Article V of Supplemental Indenture No. 1, this Debenture is convertible, at the option of the holder hereof, into shares of Common Stock upon delivery by such holder to the Conversion Agent of an irrevocable Notice of Conversion [IF DEBENTURE ISSUED IN CERTIFICATED FORM -- and, surrender to the Conversion Agent by such holder of this Debenture, duly endorsed or assigned to the Company in a blank.] In addition a holder of Preferred Securities may exercise its right under the Declaration of Trust to convert such Preferred Securities into Common Stock by delivering to the Conversation Agent an irrevocable Notice of Conversion directing

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the Conversion Agent (i) to exchange such Preferred Security for the portion of this Debenture held by the Trust and (ii) to immediately convert such portion of this Debenture, on behalf of such holder, into Common Stock, and if such Preferred Securities are in the form of Definitive Preferred Security Certificates, surrendering such Definitive Preferred Security Certificates, duly endorsed or assigned to the Company or in blank. A form of Notice of Conversion is included at the end of this Debenture.

In case an Event of Default, as defined in the Indenture, shall have occurred and be continuing, the principal of all of the Debentures of this series may be declared, and upon such declaration shall become, due and payable, in the manner, with the effect and subject to the conditions provided in the Indenture.

The Indenture contains provisions permitting the Company and the Trustee, with the consent of the holders of not less than a majority in aggregate principal amount of the Debentures of each series affected at the time outstanding, as defined in the Indenture (and, if this Debenture is held as a trust asset of Pogo Trust I, such consent of holders of the Preferred Securities and the Common Securities as may be required under the Declaration of Trust), to execute supplemental indentures for the purpose of adding any provisions to or

changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture or of modifying in any manner the rights of the holders of the Debentures; PROVIDED, HOWEVER, that no such supplemental indenture shall (i) extend the fixed maturity of the Debentures of this series, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof, without the consent of the holder of each Debenture so affected or (ii) reduce the aforesaid percentage of Debentures, the holders of which are required to consent to any such supplemental indenture, without the consent of the holders of each Debenture (and, if this Debenture is held as a trust asset of Pogo Trust I, such consent of the holders of the Preferred Securities and the Common Securities as may be required under the Declaration of Trust) then outstanding and affected thereby. The Indenture also contains provisions permitting the holders of a majority in aggregate principal amount of the Debentures of a series at the time outstanding affected thereby (subject, in the case of a Debenture held as a trust asset of Pogo Trust I and with respect to which a securities exchange has not theretofore occurred, to such consent of holders of Preferred Securities and Common Securities as may be required under the Declaration of Trust), on behalf of the holders of the Debentures of such series, to waive any past default in the performance of any of the covenants contained in the Indenture, or established pursuant to the Indenture with respect to such series, and its consequences, except a default in the payment of the principal of or premium, if any, or interest on any of the Debentures of such series as and when the same shall become due by the terms of the Debentures of such series otherwise than by acceleration (unless such default

has been cured and a sum sufficient to pay all matured installments of interest and principal and any premium has been deposited with the Trustee), or a call for redemption of the Debentures of such series. Any such consent or waiver by the registered holder of this Debenture (unless revoked as provided in the Indenture) shall be conclusive and binding upon such holder and upon all future holders and owners of this Debenture and of any Debenture issued in exchange herefor or in place hereof (whether by registration of transfer or otherwise), irrespective of whether or not any notation of such consent or waiver is made upon this Debenture.

Subject to Section 13.11 of the Indenture, no reference herein to the Indenture (other than such Section) and no provision of this Debenture or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest on this Debenture at the time and place at the rate and in the money herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, this Debenture is transferable by the registered holder hereof on the Debenture Register, upon surrender of this Debenture for registration of transfer at the Corporate Trust Office of the Trustee

accompanied by a written instrument or instruments of transfer in form satisfactory to the Company or the Trustee duly executed by the registered holder hereof or his attorney duly authorized in writing, and thereupon one or more new Debentures of authorized denominations and for the same aggregate principal amount and series will be issued to the designated transferee or transferees. No service charge will be made for any such transfer, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in relation thereto.

Prior to due presentment for registration of transfer of this Debenture, the Company, the Trustee, any paying agent and any Debenture Registrar may deem and treat the registered holder hereof as the absolute owner hereof (whether or not this Debenture shall be overdue and notwithstanding any notice of ownership or writing hereon made by anyone other than the Debenture Registrar) for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes, and neither the Company nor the Trustee nor any paying agent nor any Debenture Registrar shall be affected by any notice to the contrary.

No recourse shall be had for the payment of the principal of or the interest on this Debenture, or for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Indenture, against any incorporator, shareholder, officer or director, past, present or future, as such, of the Company or of any predecessor or successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issuance hereof, expressly waived and released.

[If certificated Debentures -- The Debentures of this series are issuable only in registered form without coupons in denominations of \$50 and any integral multiple thereto.] [If Global Debenture -- This Global Debenture is exchangeable for Debentures in definitive form under certain limited circumstances set forth in the Indenture. Debentures of this series so issued are issuable only in registered form without coupons in denominations of \$50 or any integral multiple thereof.] As provided in the Indenture and subject to certain limitations [If Global Debenture -- herein and] therein set forth, Debentures of this series [If Global Debenture -- so issued] are exchangeable for a like aggregate principal amount of Debentures of this series of a different authorized denomination, as requested by the holder surrendering the same.

All terms used in this Debenture which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

The Company and, by its acceptance of this Debenture or a beneficial

interest therein, the holder of, and any Person that acquires a beneficial interest in, this Debenture agree that for United States federal, state and local tax purposes it is intended that this Debenture constitute indebtedness.

THE INDENTURE AND THIS DEBENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THEREOF.

FORM OF NOTICE OF CONVERSION

To: Pogo Producing Company

The undersigned owner of this Debenture hereby irrevocably exercises the option to convert this Debenture, or the portion below designated, into Common Stock of Pogo Producing Company in accordance with the terms of the Indenture referred to in this Debenture, and directs that the shares issuable and deliverable upon conversion, together with any check in payment for fractional shares, be issued in the name of and delivered to the undersigned, unless a different name has been indicated in the assignment below. If shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Date: \_\_\_\_\_, \_\_\_\_\_

in whole \_\_\_\_\_

Portions of Debenture to be in part converted (\$50 or integral multiples thereof):  
\$

-----  
-----

Signature (for conversion only)  
Please Print or Typewrite Name and Address,  
Including Zip Code, and Social Security or Other  
Identifying Number

-----  
-----  
-----

Signature Guarantee: \* \_\_\_\_\_

\* Signature must be guaranteed by an institution which is a member of one or the following recognized Signature Guaranty Programs: (i) The Securities Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MSP); (iii) The Stock Exchange Medallion Program (SEMP); or (iv) in such other guarantee programs acceptable to the Trustee.

## ARTICLE EIGHT

### Miscellaneous Provisions

SECTION 8.01. The Indenture, as supplemented by this Supplemental Indenture, is in all respects ratified and confirmed. This Supplemental Indenture No. 1 shall be deemed part of the Indenture in the manner and to the extent herein and therein provided.

SECTION 8.02. Enforcement Rights of Holders of Preferred Securities. A holder of Preferred Securities will (i) have the right to enforce the Property Trustee's rights as holder of the Series A Debentures if the Property Trustee fails to enforce its rights under the Series A Debentures and (ii) have the right to directly institute a proceeding for enforcement of payment to such holder of the principal of or interest on the Series A Debentures if an Event of Default has occurred and is continuing and such event is attributed to the failure of the Company to pay interest or principal on the Series A Debentures, in the manner and to the extent set forth in Section 3.10(e) of the Declaration of Trust.

SECTION 8.03. Recitals. The recitals herein contained are made by the Company and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture No. 1.

SECTION 8.04. Counterparts. This Supplemental Indenture No. 1 may be executed in any number of counterparts each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 8.05. GOVERNING LAW. THIS SUPPLEMENTAL INDENTURE NO. 1 AND EACH SERIES A DEBENTURE SHALL BE DEEMED TO BE A CONTRACT MADE UNDER THE LAWS OF THE STATE OF NEW YORK AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THEREOF.

SECTION 8.06. Separability. In case any one or more of the provisions contained in this Supplemental Indenture No. 1 or in the Series A Debentures shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Supplemental Indenture No. 1 or of the Series A

Debentures, but this Supplemental Indenture No. 1 and the Series A Debentures shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture No. 1 to be duly executed, and their respective corporate seals to be hereunto affixed and attested, on the date or dates indicated in the acknowledgments and as of the day and year first above written.

POGO PRODUCING COMPANY

By:

-----

Name:

Title:

Attest:

-----

Name:

Title:

WILMINGTON TRUST COMPANY  
as Trustee

By:

-----

Name:

Title:

Attest:

-----

Name:

Title:



POGO PRODUCING COMPANY

GUARANTEE AGREEMENT

POGO TRUST I

-----  
Dated as of June 2, 1999  
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GUARANTEE AGREEMENT

This GUARANTEE AGREEMENT, dated as of June 2, 1999, is executed and delivered by Pogo Producing Company, a Delaware corporation (the "Guarantor"), and Wilmington Trust Company, a Delaware banking corporation, as the initial Guarantee Trustee (as defined herein) for the benefit of the Holders (as defined herein) from time to time of the Preferred Securities (as defined herein) of Pogo Trust I, a Delaware statutory business trust (the "Issuer").

WHEREAS, pursuant to an Amended and Restated Declaration of Trust (the "Declaration"), dated as of June 2, 1999 among the trustees of the Issuer named therein, Pogo Producing Company, as Sponsor, and the Holders from time to time of preferred undivided beneficial interests in the assets of the Issuer, the Issuer may issue up to \$150,000,000 aggregate liquidation amount of its 6 1/2% Cumulative Quarterly Income Convertible Preferred Securities, Series A (the "Preferred Securities") representing preferred undivided beneficial interests in the assets of the Issuer and having the terms set forth in Exhibit B to the Declaration, of which \$150,000,000 aggregate liquidation amount of Preferred Securities is being issued as of the date hereof; and

WHEREAS, as incentive for the Holders to purchase Preferred Securities, the Guarantor desires to irrevocably and unconditionally agree, to the extent set forth herein, to pay to the Holders the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the purchase by the initial purchasers thereof of Preferred Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Guarantee Agreement for the benefit of the Holders from time to time.

ARTICLE 1  
DEFINITIONS

SECTION 1.01. DEFINITIONS. (a) Capitalized terms used in this Guarantee Agreement but not defined in the preamble above have the respective meanings assigned to them in this Section 1.01;

(b) a term defined anywhere in this Guarantee Agreement has the same meaning throughout;

(c) all references to "the Guarantee Agreement" or "this Guarantee Agreement" are to this Guarantee Agreement as modified, supplemented or amended from time to time;

(d) all references in this Guarantee Agreement to Articles and Sections are to Articles and Sections of this Guarantee Agreement unless otherwise specified;

(e) a term defined in the Trust Indenture Act has the same meaning when used in this Guarantee Agreement unless otherwise defined in this Guarantee Agreement or unless the context otherwise requires; and

(f) a reference to the singular includes the plural and vice versa.

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of this definition, beneficial ownership of 10% or more of the voting common equity (on a fully diluted basis) or options or warrants to purchase such equity (but only if exercisable at the date of determination or within 60 days thereof) of a Person shall be deemed to constitute control of such Person. No Person shall be deemed an Affiliate of an oil and gas royalty trust solely by virtue of ownership of units of beneficial interest in such trust.

"Commission" means the Securities and Exchange Commission.

"Common Securities" means the securities representing common undivided beneficial interests in the assets of the Issuer, having the terms set forth in Exhibit C to the Declaration.

"Common Stock" means the common stock, \$1.00 par value per share, of the Guarantor, including associated preferred share purchase rights.

"Debentures" means the series of unsecured junior subordinated convertible debentures issued by the Guarantor under the Indenture to the Property Trustee and entitled the "6 1/2% Junior Subordinated Convertible Debentures, Series A due 2029."

"Declaration" has the meaning set forth in the first WHEREAS clause above.

"Distributions" means the periodic distributions and other payments payable to Holders in accordance with the terms of the Preferred Securities set forth in Exhibit B to the Declaration.

"Event of Default" means a default by the Guarantor on any of its payment or other obligations under this Guarantee Agreement; PROVIDED, HOWEVER, that, except with respect to a default in payment of any Guarantee Payment, any such default shall constitute an Event of Default only if the Guarantor shall have received notice of such default and shall not have cured such default within 30 days after receipt of such notice.

"Guarantee Payments" means the following payments or distributions, without duplication, with respect to the Preferred Securities, to the extent not paid or made by or on behalf of the Issuer: (i) any accumulated and unpaid Distributions, (ii) the Redemption Price, including all accumulated and unpaid Distributions to the date of redemption, with respect to the Preferred

Securities called for redemption by the Issuer but in each of (i) and (ii) only if and to the extent that in each case the Guarantor has made corresponding payments to the Property Trustee of interest or principal or premium, if any, on the Debentures and (iii) upon a voluntary or involuntary dissolution, winding-up or termination of the Issuer (other than in connection with the distribution of Debentures to Holders in exchange for Preferred Securities or the redemption of all the Preferred Securities upon the maturity or redemption of the Debentures as provided in the Declaration), the lesser of (a) the

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aggregate of the liquidation amount and all accumulated and unpaid Distributions on the Preferred Securities to the date of payment, to the extent the Issuer has funds on hand legally available therefor, and (b) the amount of assets of the Issuer remaining available for distribution to Holders in liquidation of the Issuer as required by applicable law (in either case, the "Liquidation Distribution").

"Guarantee Trustee" means Wilmington Trust Company, a Delaware banking corporation, until a Successor Guarantee Trustee has been appointed and has accepted such appointment pursuant to the terms of this Guarantee Agreement, and thereafter means each such Successor Guarantee Trustee.

"Holder" means any holder, as registered on the books and records of the Issuer, of any Preferred Securities; PROVIDED, HOWEVER, that in determining whether the holders of the requisite percentage of Preferred Securities have given any request, notice, consent or waiver hereunder, "Holder" shall not include the Guarantor or any Affiliate of the Guarantor.

"Indemnified Person" means the Guarantee Trustee, any Affiliate of the Guarantee Trustee, and any officers, directors, shareholders, members, partners, employees, representatives or agents of the Guarantee Trustee.

"Indenture" means the Junior Subordinated Indenture dated as of June 1, 1999 between the Guarantor and Wilmington Trust Company, as trustee, as supplemented by Supplemental Indenture No. 1 thereto dated as of June 1, 1999 (the "Supplemental Indenture"), pursuant to which the Debentures are to be issued to the Property Trustee.

"Liquidation Distribution" has the meaning specified in the definition of Guarantee Payments.

"Majority in liquidation amount of the Preferred Securities" means, except as otherwise required by the Trust Indenture Act, Holder(s) of outstanding Preferred Securities voting together as a single class, who are the record owners of Preferred Securities whose liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accumulated and unpaid Distributions to the date upon which the voting percentages are determined) represents more than 50% of the liquidation amount of all outstanding Preferred Securities.

"Officers' Certificate" means, with respect to any Person, a certificate signed by the Chairman of the Board, the Chief Executive Officer, the President or a Vice President, and by the Treasurer, an Associate Treasurer, an Assistant Treasurer, the Controller, the Secretary or an Assistant Secretary, of such Person, and delivered to the Guarantee Trustee. One of the officers

signing an Officers' Certificate given pursuant to Section 2.04 shall be the principal executive, financial or accounting officer of the Guarantor. Any Officers' Certificate delivered with respect to compliance with a condition or covenant provided for in this Guarantee Agreement shall include:

(i) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definitions relating thereto;

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(ii) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers' Certificate;

(iii) a statement that each officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

"Person" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association or government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Preferred Securities" has the meaning set forth in the first WHEREAS clause above.

"Property Trustee" means the Person acting as Property Trustee under the Declaration.

"Redemption Price" means the amount payable on redemption of the Preferred Securities in accordance with the terms of the Preferred Securities.

"Responsible Officer" means, when used with respect to the Guarantee Trustee, any officer within the corporate trust department of the Guarantee Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Guarantee Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Guarantee Agreement.

"Successor Guarantee Trustee" means a successor Guarantee Trustee possessing the qualifications to act as a Guarantee Trustee under Section 4.01.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended.

ARTICLE 2  
TRUST INDENTURE ACT

SECTION 2.01. TRUST INDENTURE ACT; APPLICATION. (a) This Guarantee Agreement is subject to the provisions of the Trust Indenture Act that are required to be part of this Guarantee Agreement and shall, to the extent applicable, be governed by such provisions;

(b) if and to the extent that any provision of this Guarantee Agreement limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control; and

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(c) the application of the Trust Indenture Act to this Guarantee Agreement shall not affect the nature of the Preferred Securities as equity securities representing preferred undivided beneficial interests in the assets of the Issuer.

SECTION 2.02. LISTS OF HOLDERS OF PREFERRED SECURITIES. (a) The Guarantor shall provide the Guarantee Trustee (unless the Guarantee Trustee is otherwise the registrar of the Preferred Securities) (i) within 14 days after each record date for payment of Distributions, a list, in such form as the Guarantee Trustee may reasonably require, of the names and addresses of the Holders ("List of Holders") as of such date, and (ii) at any other time within 30 days of receipt by the Guarantor of a written request for a List of Holders as of a date no more than 14 days before such List of Holders is given to the Guarantee Trustee; PROVIDED, that the Guarantor shall not be obligated to provide such List of Holders at any time that the List of Holders does not differ from the most recent List of Holders given to the Guarantee Trustee by the Guarantor. The Guarantee Trustee shall preserve, in as current a form as is reasonably practicable, all information contained in the List of Holders given to it; PROVIDED, that the Guarantee Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

(b) the Guarantee Trustee shall comply with its obligations under Sections 310(b), 311 and 312(b) of the Trust Indenture Act.

SECTION 2.03. REPORTS BY THE GUARANTEE TRUSTEE. Within 60 days after May 15 of each year, commencing May 15, 2000, the Guarantee Trustee shall provide to the Holders such reports as are required by Section 313 of the Trust Indenture Act, if any, in the form, in the manner and at the times provided by Section 313 of the Trust Indenture Act. The Guarantee Trustee shall also comply with the other requirements of Section 313 of the Trust Indenture Act. A copy of each such report shall, at the time of such transmission to the Holders, be filed by the Guarantee Trustee with the Guarantor, with each stock exchange upon which any Preferred Securities are listed (if so listed) and also with the Commission. The Guarantor agrees to notify the Guarantee Trustee when any Preferred Securities become listed on any stock exchange and any delisting thereof.

SECTION 2.04. PERIODIC REPORTS TO THE GUARANTEE TRUSTEE. The Guarantor shall provide to the Guarantee Trustee, the Commission and the Holders, as applicable, such documents, reports and information as required by Section 314(a)(1)-(3) (if any) of the Trust Indenture Act and the compliance certificates required by Section 314(a)(4) and (c) of the Trust Indenture Act, any such certificates to be provided in the form, in the



manner and at the times required by Section 314(a)(4) and (c) of the Trust Indenture Act (PROVIDED that any certificate to be provided pursuant to Section 314(a)(4) of the Trust Indenture Act shall be provided within 120 days of the end of each fiscal year of the Guarantor).

SECTION 2.05. EVIDENCE OF COMPLIANCE WITH CONDITIONS PRECEDENT. The Guarantor shall provide to the Guarantee Trustee such evidence of compliance with any conditions precedent, if any, provided for in this Guarantee Agreement which relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c) may be given in the form of an Officers' Certificate.

SECTION 2.06. EVENTS OF DEFAULT; WAIVER. (a) The Holders of a Majority in liquidation amount of the Preferred Securities may, by vote, on behalf of the Holders, waive any past Event of

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Default and its consequences. Upon such waiver, any such Event of Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Guarantee Agreement, but no such waiver shall extend to any subsequent or other default or Event of Default, or impair any right consequent thereon.

(b) The right of any Holder to receive payment of the Guarantee Payments in accordance with this Guarantee Agreement, or to institute suit for the enforcement of any such payment, shall not be impaired without the consent of each such Holder.

SECTION 2.07. DISCLOSURE OF INFORMATION. The disclosure of information as to the names and addresses of the Holders in accordance with Section 312 of the Trust Indenture Act, regardless of the source from which such information was derived, shall not be deemed to be a violation of any existing law, or any law hereafter enacted which does not specifically refer to Section 312 of the Trust Indenture Act, nor shall the Guarantee Trustee be held accountable by reason of mailing any material pursuant to a request made under Section 312(b) of the Trust Indenture Act.

SECTION 2.08. CONFLICTING INTEREST. The Declaration shall be deemed to be specifically described in this Guarantee Agreement for the purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

### ARTICLE 3

#### POWERS, DUTIES AND RIGHTS OF THE GUARANTEE TRUSTEE

SECTION 3.01. POWERS AND DUTIES OF THE GUARANTEE TRUSTEE. (a) This Guarantee Agreement shall be held by the Guarantee Trustee in trust for the benefit of the Holders. The Guarantee Trustee shall not transfer its right, title and interest in this Guarantee Agreement to any Person except a Successor Guarantee Trustee on acceptance by such Successor Guarantee Trustee of its appointment to act as Guarantee Trustee or to a Holder exercising his or her rights pursuant to Section 5.04(iv). The right, title and interest of the Guarantee Trustee to this Guarantee Agreement shall vest automatically in each Person who may hereafter be appointed as Guarantee Trustee in accordance with Article 4. Such vesting and cessation of title shall be effective whether or not

conveyancing documents have been executed and delivered.

(b) If an Event of Default has occurred and is continuing, the Guarantee Trustee shall enforce this Guarantee Agreement for the benefit of the Holders.

(c) This Guarantee Agreement and all moneys received by the Property Trustee in respect of the Guarantee Payments will not be subject to any right, charge, security interest, lien or claim of any kind in favor of, or for the benefit of, the Guarantee Trustee or its agents or their creditors.

(d) The Guarantee Trustee shall, within 90 days after the occurrence of an Event of Default known to a Responsible Officer of the Guarantee Trustee, transmit by mail, first class postage prepaid, to the Holders, as their names and addresses appear upon the List of Holders, notice of all such Events of Default, unless such defaults shall have been cured before the giving of such notice; PROVIDED, that, the Guarantee Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors and/or Responsible

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Officers, of the Guarantee Trustee in good faith determine that the withholding of such notice is in the interests of the Holders. The Guarantee Trustee shall not be deemed to have knowledge of any Event of Default except any Event of Default as to which the Guarantee Trustee shall have received written notice or a Responsible Officer charged with the administration of this Guarantee Agreement shall have obtained written notice of such Event of Default.

(e) The Guarantee Trustee shall continue to serve as a trustee until a Successor Guarantee Trustee has been appointed and accepted that appointment in accordance with Article 4.

#### SECTION 3.02. CERTAIN RIGHTS AND DUTIES OF THE GUARANTEE TRUSTEE.

(a) The Guarantee Trustee, before the occurrence of an Event of Default and after the curing or waiving of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Guarantee Agreement, and no implied covenants shall be read into this Guarantee Agreement against the Guarantee Trustee. In case an Event of Default has occurred (that has not been cured or waived pursuant to Section 2.06), the Guarantee Trustee shall exercise such of the rights and powers vested in it by this Guarantee Agreement, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) No provision of this Guarantee Agreement shall be construed to relieve the Guarantee Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) prior to the occurrence of an Event of Default and after the curing or waiving of all such Events of Default that may have occurred:

(A) the duties and obligations of the Guarantee Trustee shall be determined solely by the express provisions of this Guarantee Agreement, and the Guarantee Trustee shall not be

liable except for the performance of such duties and obligations as are specifically set forth in this Guarantee Agreement, and no implied covenants or obligations shall be read into this Guarantee Agreement against the Guarantee Trustee; and

(B) in the absence of bad faith on the part of the Guarantee Trustee, the Guarantee Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Guarantee Trustee and conforming to the requirements of this Guarantee Agreement; but in the case of any such certificates or opinions that by any provision hereof or the Trust Indenture Act are specifically required to be furnished to the Guarantee Trustee, the Guarantee Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Guarantee Agreement or the Trust Indenture Act, as the case may be;

(ii) the Guarantee Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Guarantee Trustee, unless it shall be proved that

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the Guarantee Trustee was negligent in ascertaining the pertinent facts upon which such judgment was made;

(iii) the Guarantee Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a Majority in liquidation amount of Preferred Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee, or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee Agreement; and

(iv) no provision of this Guarantee Agreement shall require the Guarantee Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Guarantee Agreement or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) Subject to the provisions of Section 3.02(a) and (b):

(i) whenever in the administration of this Guarantee Agreement, the Guarantee Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and rely upon an Officers' Certificate, which, upon receipt of

such request, shall be promptly delivered by the Guarantor;

(ii) the Guarantee Trustee (A) may consult with counsel (which may be counsel to the Guarantor or any of its Affiliates and may include any of its employees) selected by it in good faith and with due care and the written advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon and in accordance with such advice and opinion and (B) shall have the right at any time to seek instructions concerning the administration of this Guarantee Agreement from any court of competent jurisdiction;

(iii) the Guarantee Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys, and the Guarantee Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed by it in good faith and with due care;

(iv) the Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Guarantee Agreement at the request or direction of any Holder, unless such Holder shall have offered to the Guarantee Trustee security and indemnity satisfactory to the Guarantee Trustee against the costs, expenses (including its attorneys' fees and expenses) and liabilities that might be incurred by it in complying with such request or direction; PROVIDED that nothing contained in this clause (iv) shall relieve the Guarantee

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Trustee of the obligation, upon the occurrence of an Event of Default (which has not been cured or waived) to exercise such of the rights and powers vested in it by this Guarantee Agreement, and to use the same degree of care and skill in this exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs; and

(v) any action taken by the Guarantee Trustee or its agents hereunder shall bind the Holders and the signature of the Guarantee Trustee or its agents alone shall be sufficient and effective to perform any such action; and no third party shall be required to inquire as to the authority of the Guarantee Trustee to so act, or as to its compliance with any of the terms and provisions of this Guarantee Agreement, both of which shall be conclusively evidenced by the Guarantee Trustee's or its agent's taking such action.

SECTION 3.03. NOT RESPONSIBLE FOR RECITALS OR ISSUANCE OF GUARANTEE. The recitals contained in this Guarantee Agreement shall be taken as the statements of the Guarantor and the Guarantee Trustee does not assume any responsibility for their correctness. The Guarantee Trustee makes no representations as to the validity or sufficiency of this Guarantee Agreement.

SECTION 3.04. THE GUARANTEE TRUSTEE MAY OWN PREFERRED SECURITIES. The Guarantee Trustee, in its individual or any other capacity, may become the owner

or pledgee of Preferred Securities and may otherwise deal with the Guarantor with the same rights it would have if it were not Guarantee Trustee.

SECTION 3.05. MONEYS RECEIVED BY THE GUARANTEE TRUSTEE TO BE HELD IN TRUST WITHOUT INTEREST. All moneys received by the Guarantee Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Guarantee Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree in writing to pay thereon.

#### ARTICLE 4 GUARANTEE TRUSTEE

SECTION 4.01. QUALIFICATIONS. There shall at all times be a Guarantee Trustee that shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a national banking association or corporation organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, or a corporation or Person permitted by the Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000, and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then for the purposes of this clause (ii), the combined capital and surplus of such corporation shall

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be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

If at any time the Guarantee Trustee shall cease to satisfy the requirements of clauses (i) and (ii) above, the Guarantee Trustee shall immediately resign in the manner and with the effect set out in Section 4.02. If the Guarantee Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Guarantee Trustee and the Guarantor shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

SECTION 4.02. APPOINTMENT, REMOVAL AND RESIGNATION OF THE GUARANTEE TRUSTEE. (a) Subject to Section 4.02(b), the Guarantee Trustee may be appointed or removed without cause at any time by the Guarantor.

(b) The Guarantee Trustee shall not be removed in accordance with Section 4.02(a) until a Successor Guarantee Trustee possessing the qualifications to act as Guarantee Trustee under Section 4.01 has been appointed and has accepted such appointment by written instrument executed by such Successor Guarantee Trustee and delivered to the Guarantor and the Guarantee Trustee being removed.

(c) The Guarantee Trustee appointed to office shall hold office until his successor shall have been appointed or until its removal or resignation.

(d) The Guarantee Trustee may resign from office (without need for prior or subsequent accounting) by an instrument (a "Resignation Request") in writing signed by the Guarantee Trustee and delivered to the Guarantor, which resignation shall take effect upon such delivery or upon such later date as is specified therein; PROVIDED, HOWEVER, that no such resignation of the Guarantee Trustee shall be effective until a Successor Guarantee Trustee possessing the qualifications to act as Guarantee Trustee under Section 4.01 has been appointed and has accepted such appointment by instrument executed by such Successor Guarantee Trustee and delivered to the Guarantor and the resigning Guarantee Trustee.

(e) If no Successor Guarantee Trustee shall have been appointed and accepted appointment as provided in this Section 4.02 within 60 days after delivery to the Guarantor of a Resignation Request, the resigning Guarantee Trustee may petition any court of competent jurisdiction for appointment of a Successor Guarantee Trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, appoint a Successor Guarantee Trustee.

## ARTICLE 5 GUARANTEE

SECTION 5.01. GUARANTEE. To the extent set forth herein, the Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by the Issuer), as and when due, regardless of any defense, right of set-off or counterclaim which the Issuer may have or assert. The Guarantor's obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Issuer to pay such amounts to the Holders.

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SECTION 5.02. WAIVER OF NOTICE. The Guarantor hereby waives notice of acceptance of this Guarantee Agreement and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Issuer or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands. Notwithstanding anything to the contrary herein, the Guarantor retains all of its rights under the Indenture to extend the interest payment period on the Debentures and the Guarantor shall not be obligated hereunder to make any Guarantee Payment during any Extended Interest Payment Period (as defined in the Supplemental Indenture) with respect to the Distributions on the Preferred Securities.

SECTION 5.03. OBLIGATIONS NOT AFFECTED. The obligations, covenants, agreements and duties of the Guarantor under this Guarantee Agreement shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer of any express or implied

agreement, covenant, term or condition relating to the Preferred Securities to be performed or observed by the Issuer;

(b) the extension of time for the payment by the Issuer of all or any portion of the Distributions (other than an extension of time for payment of Distributions that result from any Extended Interest Payment Period), Redemption Price, Liquidation Distribution (as defined in the Declaration) or any other sums payable under the terms of the Preferred Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Preferred Securities (other than an extension of time for payment of Distributions that result from any Extended Interest Payment Period);

(c) any failure, omission, delay or lack of diligence on the part of the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Preferred Securities, or any action on the part of the Issuer granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer or any of the assets of the Issuer;

(e) any invalidity of, or defect or deficiency in, the Preferred Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 5.03 that the obligations of the Guarantor with respect to the Guarantee Payments shall be absolute and unconditional under any and all circumstances.

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There shall be no obligation of the Holders to give notice to, or obtain consent of, the Guarantor with respect to the happening of any of the foregoing.

SECTION 5.04. ENFORCEMENT OF GUARANTEE. The Guarantor and the Guarantee Trustee expressly acknowledge that (i) this Guarantee Agreement will be deposited with the Guarantee Trustee to be held for the benefit of the Holders; (ii) the Guarantee Trustee has the right to enforce this Guarantee Agreement on behalf of the Holders; (iii) Holders representing not less than a Majority in liquidation amount of the Preferred Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee in respect of this Guarantee Agreement or exercising any trust or other power conferred upon the Guarantee Trustee under this Guarantee Agreement; and (iv) if the Guarantee Trustee fails to enforce this Guarantee Agreement as provided in clauses (ii) and (iii) above, any Holder may institute a legal proceeding directly against the Guarantor to enforce its



rights under this Guarantee Agreement, without first instituting a legal proceeding against the Issuer, the Guarantee Trustee or any other Person. Notwithstanding the foregoing, if the Guarantor has failed to make a Guarantee Payment, a Holder may directly institute a proceeding against the Guarantor for enforcement of this Guarantee Agreement for such payment without first instituting a legal proceeding against the Issuer, the Guarantee Trustee or any other Person.

SECTION 5.05. GUARANTEE OF PAYMENT. This Guarantee Agreement creates a guarantee of payment and not merely of collection. This Guarantee Agreement will not be discharged except by payment of the Guarantee Payments in full (without duplication of amounts theretofore paid by the Issuer) or upon the distribution of the Debentures to the Holders as provided in the Declaration.

SECTION 5.06. SUBROGATION. The Guarantor shall be subrogated to all (if any) rights of the Holders against the Issuer in respect of any amounts paid to the Holders by the Guarantor under this Guarantee Agreement; PROVIDED, HOWEVER, that the Guarantor shall not (except to the extent required by mandatory provisions of law) be entitled to enforce or exercise any rights which it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Guarantee Agreement, if, at the time of any such payment, any amounts are due and unpaid under this Guarantee Agreement. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Holders.

SECTION 5.07. INDEPENDENT OBLIGATIONS. The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Issuer with respect to the Preferred Securities and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Guarantee Agreement notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 5.03 hereof.

ARTICLE 6  
LIMITATION OF TRANSACTIONS; SUBORDINATION

SECTION 6.01. LIMITATION OF TRANSACTIONS. So long as any Preferred Securities remain outstanding, the Guarantor will not (x) declare or pay dividends on, or redeem, purchase, acquire or make a distribution or liquidation payment with respect to, any of its capital stock (other than (a) dividends or distributions in shares of, or options, warrants, rights to subscribe for or purchase shares of, common stock of the Guarantor, (b) any declaration of a dividend in connection with the implementation of a stockholders' rights plan, or the issuance of stock under any such plan in the future, or the redemption or repurchase of any such rights pursuant thereto, (c) as a result of a reclassification of the Guarantor's capital stock or the exchange or the conversion of one class or series of the Guarantor's capital stock for another class or series of the Guarantor's capital stock, (d) the payment of accrued dividends and the purchase of fractional interests in shares of the Guarantor's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, or (e) purchases of the

Guarantor's common stock related to the issuance of the Guarantor's common stock or rights under any of the Guarantor's benefit plans for its directors, officers or employees, any of the Guarantor's dividend reinvestment plans or stock purchase plans, or any of the benefit plans of any of the Guarantor's Affiliates, for such Affiliate's directors, officers or employees), (y) make any payment of principal or of interest or premium, if any, on or repay, repurchase or redeem any debt security of the Company that ranks PARI PASSU with or junior in interest to the Debentures or (z) make any guarantee payments with respect to any guarantee by the Company of the debt securities of any Subsidiary of the Company (other than pursuant to this Guarantee Agreement or a substantially similar guarantee agreement relating to a series of trust preferred securities substantially similar to the Preferred Securities) if such guarantee ranks PARI PASSU with or junior in interest to the Debentures, if at such time (i) the Guarantor shall be in default with respect to its Guarantee Payments or other payment obligations hereunder, (ii) there shall have occurred any event of default under the Declaration or (iii) the Guarantor shall have given notice of its election of an Extended Interest Payment Period and such period, or any extension thereof, is continuing. In addition, so long as any Preferred Securities remain outstanding, the Guarantor (i) will remain the sole direct or indirect owner of all of the outstanding Common Securities and shall not cause or permit the Common Securities to be transferred except to the extent such transfer is permitted under Section 9.01 of the Declaration; PROVIDED that any permitted successor of the Guarantor under the Indenture may succeed to the Guarantor's ownership of the Common Securities and (ii) will use reasonable efforts to cause the Issuer to continue to be treated as a grantor trust for United States federal income tax purposes except in connection with a distribution of Debentures as provided in the Declaration.

SECTION 6.02. SUBORDINATION. This Guarantee Agreement will constitute an unsecured obligation of the Guarantor and will rank (i) subordinate and junior in right of payment to all other liabilities of the Guarantor, including the Debentures, except those made PARI PASSU or subordinate by their terms, and (ii) senior to all capital stock (other than the most senior preferred stock issued, from time to time, if any, by the Guarantor, which preferred stock will rank PARI PASSU with this Guarantee Agreement) now or hereafter issued by the Guarantor and to any guarantee now or hereafter entered into by the Guarantor in respect of any of its capital stock (other than the most senior preferred stock issued, from time to time, if any, by the Guarantor). The Guarantor's obligations under this Guarantee Agreement will rank PARI PASSU with respect to obligations under

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other guarantee agreements which it may enter into from time to time to the extent that (i) such agreements shall be entered into in substantially the form hereof and provide for comparable guarantees by the Guarantor of payment on preferred securities issued by other trusts, partnerships or other entities affiliated with the Guarantor that are financing vehicles of the Guarantor and (ii) the debentures or other evidences of indebtedness of the Guarantor relating to such preferred securities are junior subordinated, unsecured indebtedness of the Guarantor.

#### ARTICLE 7 TERMINATION

SECTION 7.01. TERMINATION. This Guarantee Agreement shall terminate and

be of no further force and effect (i) upon full payment of the Redemption Price of all Preferred Securities, (ii) upon the distribution of Debentures to Holders and holders of Common Securities in exchange for all of the Preferred Securities and Common Securities, (iii) upon full payment of the amounts payable in accordance with the Declaration upon liquidation of the Issuer or (iv) upon the distribution, if any, of Common Stock to Holders in respect of the conversion of all such Holders' Preferred Securities into Common Stock. Notwithstanding the foregoing, this Guarantee Agreement will continue to be effective or will be reinstated, as the case may be, if at any time any Holder must restore payment of any sums paid with respect to the Preferred Securities or under this Guarantee Agreement.

ARTICLE 8  
LIMITATION OF LIABILITY; INDEMNIFICATION

SECTION 8.01. EXCULPATION. (a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Guarantor or any Holder for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith in accordance with this Guarantee Agreement and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Guarantee Agreement or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Guarantor and upon such information, opinions, reports or statements presented to the Guarantor by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Guarantor, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses or any other facts pertinent to the existence and amount of assets from which Distributions to Holders might properly be paid.

SECTION 8.02. INDEMNIFICATION. To the fullest extent permitted by applicable law, the Guarantor shall indemnify and hold harmless each Indemnified Person from and against any loss, damage or claim incurred by such Indemnified Person by reason of any act or omission performed or omitted by such Indemnified Person in good faith in accordance with this Guarantee Agreement and in a manner such Indemnified Person reasonably believed to be within the scope of authority conferred on such Indemnified Person by this Guarantee Agreement, except that no Indemnified

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Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Indemnified Person by reason of negligence or willful misconduct with respect to such acts or omissions.

SECTION 8.03. SURVIVE TERMINATION. The provisions of Sections 8.01 and 8.02 shall survive the termination of this Guarantee Agreement or the resignation or removal of the Guarantee Trustee.

ARTICLE 9  
MISCELLANEOUS

SECTION 9.01. SUCCESSORS AND ASSIGNS. All guarantees and agreements contained in this Guarantee Agreement shall bind the successors, assignees, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders then outstanding. Except in connection with a consolidation, merger or sale involving the Guarantor that is permitted under Article Ten of the Indenture, the Guarantor shall not assign its obligations hereunder.

SECTION 9.02. AMENDMENTS. Except with respect to any changes which do not adversely affect the rights of Holders in any material respect (in which case no consent of Holders will be required), this Guarantee Agreement may only be amended with the prior approval of the Guarantor and the Holders of not less than a Majority in liquidation amount of the Preferred Securities. The provisions of Section 12.02 of the Declaration concerning meetings of Holders shall apply to the giving of such approval.

SECTION 9.03. NOTICES. Any notice, request or other communication required or permitted to be given hereunder shall be in writing, duly signed by the party giving such notice, and delivered, telecopied or mailed by first class mail as follows:

(a) if given to the Guarantor, to the address set forth below or such other address as the Guarantor may give notice of to the Holders:

Pogo Producing Company  
5 Greenway Plaza  
Suite 2700  
Houston, Texas 77046  
Facsimile No.: (713) 297-5100  
Attention: Corporate Secretary

(b) if given to the Guarantee Trustee, to the address set forth below or such other address as the Guarantee Trustee may give notice of to the Holders:

Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19810  
Attention: Corporate Trust Administration  
Telecopy: (617) 664-5739

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(c) if given to any Holder, at the address set forth on the books and records of the Issuer.

All notices hereunder shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid, except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on

the date of such refusal or inability to deliver.

SECTION 9.04. GENDERS. The masculine, feminine and neuter genders used herein shall include the masculine, feminine and neuter genders.

SECTION 9.05. BENEFIT. This Guarantee Agreement is solely for the benefit of the Holders and subject to Section 3.01(a) is not separately transferable from the Preferred Securities.

SECTION 9.06. GOVERNING LAW. THIS GUARANTEE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS). THE GUARANTOR IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTEE, AND THE GUARANTOR IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED BY ANY SUCH COURT.

SECTION 9.07. COUNTERPARTS. This Guarantee Agreement may be executed in counterparts, each of which shall be an original; but such counterparts shall together constitute one and the same instrument.

SECTION 9.08. LIMITED LIABILITY. The Holders, in their capacities as such, shall not be personally liable for any liabilities or obligations of the Guarantor arising out of this Guarantee Agreement, and the parties hereby agree that the Holders, in their capacities as such, shall be entitled to the same limitation of personal liability extended to the stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

THIS GUARANTEE AGREEMENT is executed as of the day and year first above written.

POGO PRODUCING COMPANY

By: \_\_\_\_\_  
Name:  
Title:

WILMINGTON TRUST COMPANY,  
not in its individual capacity,  
but solely as Guarantee Trustee

By:

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Name:

Title:

WASHINGTON  
AUSTIN  
DALLAS  
NEW YORK  
MOSCOW  
LONDON  
BAKU

BAKER & BOTTS  
L.L.P.  
ONE SHELL PLAZA  
910 LOUISIANA  
HOUSTON, TEXAS 77002-4995

TELEPHONE: (713) 229-1234  
FACSIMILE: (713) 229-1522

004241.0280

May 27, 1999

Pogo Producing Company  
5 Greenway Plaza, Suite 2700  
Houston, Texas 77046

Ladies and Gentlemen:

We have acted as counsel to Pogo Producing Company, a Delaware corporation ("Pogo Producing"), and Pogo Trust I and Pogo Trust II, each of which is a Delaware statutory business trust (collectively, the "Trusts"), relating to the registration of (i) \$250,000,000 aggregate principal amount of Junior Subordinated Debt Securities of Pogo Producing and (ii) \$250,000,000 aggregate liquidation amount of preferred securities of the Trusts. In that connection, reference is made to the registration statement under the Securities Act of 1933, as amended, of Pogo Producing and the Trusts on Form S-3 (Registration Nos. 333-75105, 333-75105-01, and 333-75105-02) filed with the Securities and Exchange Commission (the "Commission") on March 26, 1999, as amended by Pre-Effective Amendment No. 1 thereto filed with the Commission on May 3, 1999 and Pre-Effective Amendment No. 2 thereto filed with the Commission on May 10, 1999 and declared effective by the Commission on May 13, 1999 (as amended, the "Registration Statement"), including a prospectus dated May 13, 1999 (the "Prospectus"), and a prospectus supplement dated May 26, 1999 (the "Prospectus Supplement") describing the 6 1/2% Cumulative Quarterly Income Convertible Preferred Securities, Series A of Pogo Trust I (the "Preferred Securities") and the 6 1/2% Junior Subordinated Debentures, Series A due 2029 of Pogo Producing (the "Junior Subordinated Debentures"). Capitalized terms not otherwise defined herein shall have the meaning specified in the Prospectus and the Prospectus Supplement.

We have examined the Prospectus, the Prospectus Supplement, and such other documents and corporate records as we have deemed necessary or appropriate for purposes of this opinion. In addition, we have assumed that the Junior Subordinated Debentures and the Preferred Securities will be issued in accordance with the operative documents described in the Prospectus and the Prospectus Supplement.

Based on the assumptions contained therein, the statements of legal



conclusion set forth under the heading "Federal Income Tax Consequences" in the Prospectus Supplement reflect our opinions on the material United States federal income tax consequences of the ownership and disposition of the Preferred Securities.

Pogo Producing company

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May 27, 1999

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the references to this Firm in the section captioned "Federal Income Tax Consequences" in the Prospectus Supplement. In giving this consent, we do not thereby admit that we come within the category of a person whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Commission thereunder.

Very truly yours,

BAKER & BOTTS, L.L.P.

By: /s/ Stuart F. Schaffer

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Stuart F. Schaffer

SFS:3301