

**EXCELLON RESOURCES INC.**

**– and –**

**SILVER EAGLE MINES INC.**

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**ARRANGEMENT AGREEMENT**

---

March 20, 2009

Heenan Blaikie LLP

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## ARRANGEMENT AGREEMENT

THIS AGREEMENT made as of the 20th day of March, 2009

BETWEEN:

**EXCELLON RESOURCES INC.**, a company existing under the *Business Corporations Act* (British Columbia), having an office at 20 Victoria Street, Suite 900, Toronto, Ontario, M5C 2N8

(“**Excellon**”)

AND:

**SILVER EAGLE MINES INC.**, a company existing under the *Business Corporation Act* (Ontario), having an office at 360 Bay Street, Suite 1010, Toronto, Ontario M5H 2V6

(“**Silver Eagle**”)

WITNESSES THAT WHEREAS:

A. Silver Eagle proposes to enter into an Arrangement (as defined below) under section 182 of the *Business Corporation Act* (Ontario) involving its shareholders under which Excellon will become the sole shareholder of Silver Eagle and the shareholders of Silver Eagle will become shareholders of Excellon, subject to the terms and conditions of this Agreement and the Arrangement; and

B. Excellon and Silver Eagle have entered into this Agreement to provide for the matters referred to in the foregoing recital and for other matters relating to such Arrangement,

NOW THEREFORE in consideration of the mutual premises and the respective covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), Excellon and Silver Eagle agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

In this Agreement, but not the Schedules hereto:

“**Acquisition Proposal**” has the meaning ascribed thereto in Section 6.1;

“**Act**” means the *Business Corporations Act* (Ontario) and the regulations made thereunder, as promulgated or amended from time to time;

“**Applicable Securities Laws**” means such of the Canadian Securities Laws, the U.S. Securities Exchange Act and the U.S. Securities Act, as applicable to a transaction or a person;

“**Arrangement Resolution**” means the proposed special resolution to be considered by Silver Eagle Shareholders at the Silver Eagle Meeting in the form set out in Schedule “A” to this Agreement;

“**Arrangement**” means an Arrangement under section 182 of the Act giving effect to the transactions described in the Plan of Arrangement;

“**Articles of Arrangement**” means the articles of arrangement of Silver Eagle in respect of the Arrangement to be filed with the Director pursuant to section 183(1) of the Act;

“**Benefit Plan**” means any:

- (a) pension, retirement, deferred compensation, registered retirement savings plan, savings, profit-sharing, stock option, stock purchase, bonus, incentive, vacation pay, severance pay, supplemental unemployment benefit, employee assistance, death benefit or other employee or post-retirement benefit plan, trust, arrangement, contract, agreement, policy or commitment (including any arrangement to provide pension benefits in excess of the maximum amounts which are allowed under the Tax Act to be provided through a registered pension plan) from which current or former employees or consultants of a Party or any of its Subsidiaries (or their affiliates), in Canada or any other country, benefit or have the potential to benefit; or
- (b) group or individual insurance policy or coverage (including self-insured coverage) for accident and sickness or life insurance (including any individual insurance policy under which any employee or former employee of a Party or any of its Subsidiaries is the named insured and as to which a Party or any of its Subsidiaries makes premium payments, whether or not the Party or any of its Subsidiaries is the owner, beneficiary or both of that policy), or other insured or covered expense reimbursement coverage, from which current or former employees or consultants of a Party or any of its Subsidiaries (or their affiliates), in Canada or any other country, benefit or have the potential to benefit,

which is intended to provide or does provide benefits to any or all current or former employees or consultants of a Party or any of its Subsidiaries (or their affiliates), and to which a Party or any of its Subsidiaries is a party or by which a Party or any of its Subsidiaries (or any of the rights, properties or assets of a Party or any of its Subsidiaries) is bound, or with respect to which a Party or any of its Subsidiaries has any liability or potential liability, whether or not any of the foregoing is funded or unfunded, written or oral, formal or informal, and whether or not a Party or any of its Subsidiaries still maintains such plan, trust, arrangement, contract, agreement, policy or commitment;

“**Business Day**” means a day which is not a Saturday, Sunday or a civic or statutory holiday in the provinces of Ontario or British Columbia, on which banks are open for business in the cities of Toronto and Vancouver;

“**Canadian Securities Laws**” means: (a) the *Securities Act* (Ontario) or the equivalent legislation in each Province and Territory of Canada; (b) the rules, regulations, instruments and policies adopted by the securities regulatory authority of any Province or Territory of Canada, as amended from time to time; and (c) the TSX Company Manual, each as amended from time to time;

“**Circular**” means the notice of meeting proxy form and the accompanying management information circular and the exhibits thereto to be sent to Silver Eagle Shareholders in connection with the Silver Eagle Meeting;

“**Completion Deadline**” has the meaning ascribed thereto in Subsection 10.1(c);

“**Confidentiality Agreement**” means the confidentiality agreement between Excellon and Silver Eagle dated November 26, 2008;

“**Consideration**” means the consideration to be received by Silver Eagle Shareholders pursuant to the Plan of Arrangement as consideration for their Silver Eagle Common Shares, consisting of 0.2704 of an Excellon Common Shares for each Silver Eagle Common Shares;

“**Contaminants**” means any radioactive materials, asbestos materials, urea formaldehyde, hydrocarbon contaminants, underground or above-ground tanks, pollutants, contaminants, deleterious substances, dangerous substances or goods, hazardous, corrosive, or toxic substances, special waste or waste of any kind, or any other substance, the storage, manufacture, disposal, treatment, generation, use, transport, remediation, or Release into the Environment of which is prohibited, controlled, or regulated under Environmental Laws;

“**Court**” means the Superior Court of Justice (Ontario);

“**Depositary Agreement**” means a depositary agreement to be dated on or prior to the Effective Date between Excellon and the Depositary, pursuant to which the Depositary agrees to act in the capacity of the Depositary for the purposes of the Plan of Arrangement, and to undertake the actions of the Depositary provided for therein;

“**Depositary**” means any trust company, bank or financial institution agreed to in writing between Excellon and Silver Eagle for the purpose of, among other things, exchanging certificates representing Silver Eagle Common Shares for certificates representing Excellon Common Shares in connection with the Arrangement;

“**Director**” means the Director appointed under section 278 of the Act;

“**Dissent Rights**” means the rights of dissent exercisable by the Silver Eagle Shareholders in respect of the Arrangement Resolution described in the Plan of Arrangement;

“**Effective Date**” means the effective date as shown on the certificate of arrangement issued in accordance with section 183(2) of the Act giving effect to the Arrangement;

“**Effective Time**” means the time when the Arrangement will be deemed to have been completed, which shall be 12:01 a.m. (Eastern Standard Time) on the Effective Date;

“**Encumbrances**” means any hypothecs, mortgages, pledges, assignments, liens, charges, security interests, adverse rights or claims, other third party interest or encumbrance of any kind, whether contingent or absolute, and any agreement, option, right or privilege (whether by Law, contract or otherwise) capable of becoming any of the foregoing;

“**Environment**” includes the air (including all layers of the atmosphere), land (including soil, sediment deposited on land, fill, and lands submerged under water), and water (including oceans, lakes, rivers, streams, groundwater, and surface water);

“**Environmental Laws**” means all laws relating in any way to the Environment, environmental assessment, health, occupational health and safety, or the use, purchase, storage, treatment, transportation or disposal of Contaminants;

“**Environmental Permits**” means all permits or program participation requirements with or from any Governmental Authority under any Environmental Laws;

“**Excellon Common Shares**” means the common shares in the authorized share capital of Excellon;

“**Excellon Contracts**” has the meaning ascribed thereto in Subsection 3.2(cc);

“**Excellon Data Room Information**” means the documents listed in the index attached to the Excellon Disclosure Letter;

“**Excellon Debt Agreements**” has the meaning ascribed thereto in Subsection 3.2(n)(ii);

“**Excellon Disclosure Letter**” means the disclosure letter executed by Excellon and delivered to Silver Eagle dated the date hereof;

“**Excellon Options**” means options granted to acquire Excellon Common Shares;

“**Excellon Public Record**” has the meaning ascribed thereto in Subsection 3.2(p);

“**Excellon Shareholders**” means the holders from time to time of Excellon Common Shares;

“**Excellon Stock Option Plan**” means Excellon’s stock option plan approved by the Excellon Shareholders on January 25, 2005, as amended;

“**Excellon Subsidiaries**” means, collectively, Destorbelle Mines Limited, Minera Excellon de Mexico S.A. de C.V., Excellon Resources U.S.A., Inc., Excellon Resources (Bahamas) Inc. and Excellon New Mining Projects, S.A. de C.V.;

“**Exchange Ratio**” means the ratio of 0.2704 Excellon Common Shares for every one (1) Silver Eagle Common Share;

“**Final Order**” means the final order of the Court approving the Arrangement, as such order may be amended by the Court (with the consent of both Excellon and Silver Eagle) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended on appeal;

“**GAAP**” means Canadian generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants or any successor institute;

“**Governmental Authority**” means any:

- (a) multinational, federal, provincial, state, county, regional, municipal, local or other government, governmental or public department or ministry, central bank or Tribunal, domestic or foreign;
- (b) subdivision, agent or representative of any of the foregoing; or
- (c) quasi-governmental or private body exercising any administrative, regulatory, expropriation or taxing authority under or for the account of any of the foregoing, including stock exchanges;

“**Income Tax Act**” means the *Income Tax Act* (Canada), as amended and the regulations thereunder, as amended;

“**Interim Order**” means the interim order of the Court providing for, among other things, the calling and holding of the Silver Eagle Meeting, as the same may be amended, supplemented or varied;

“**Law**” or “**Laws**” means all:

- (a) laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, principles of law, published policies or guidelines;
- (b) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, decrees or awards, including general principles of common and civil law; and
- (c) terms and conditions of any grant of approval, permission, authority or licence of any Governmental Authority,

domestic or foreign, and the term “**Applicable**” with respect to such Laws and in a context that refers to one or more persons, means that such Laws apply to such person or persons or its or their business, undertaking, property, assets or securities and emanate from a Governmental Authority having jurisdiction over the person or persons or its or their business, undertaking, property, assets or securities;

“**Locked-up Shareholders**” means all of the officers and directors of Silver Eagle listed in Schedule “B” attached hereto;

“**material adverse change**” means, in respect of any person, any one or more changes, events or occurrences, and “**material adverse effect**” means, in respect of any person, any one or more changes, effects, events or occurrences, which, in either case, either individually or in the aggregate, is or would reasonably be expected to be material and adverse to the business, operations, results of operations or financial condition of that person taken as a whole, or that would prevent or materially impede the completion of the Arrangement, except any change, effect, event or occurrence resulting from or relating to: (a) the public announcement of the execution of this Agreement or the transactions contemplated hereby or the performance of any obligation hereunder or, in the case of Silver Eagle, communication by Excellon of its plans or intentions with respect to Silver Eagle and/or any of its subsidiaries; (b) any change in applicable Laws or in the interpretation thereof by any Governmental Authority provided that it does not relate primarily only to that person and does not have a materially disproportionate effect on such person relative to comparable mining companies; (c) any change in GAAP; (d) any natural disaster provided that it does not have a materially disproportionate affect on such person relative to comparable mining companies; (e) changes affecting the mining industry generally or the price of silver, lead or zinc, provided that such changes do not have a materially disproportionate effect on such Party relative to comparable mining companies; (f) general economic, financial, currency exchange, securities or commodity market conditions; (g) any act of terrorism or outbreak or escalation of hostilities or armed conflict; or (h) any change in the market price of the Silver Eagle Common Shares or the Excellon Common Shares, as applicable, (it being understood without limiting the applicability of paragraphs (a) to (h), the cause or causes of any such change in the market price of the Silver Eagle Common Shares may constitute, in and of itself, a material adverse change or material adverse effect and may be taken into account in determining whether a material adverse change or material adverse effect has occurred), and references in this Agreement to dollar amounts are not intended to be and shall not be deemed to be illustrative or interpretative for purposes of determining whether a “material adverse effect” or a “material adverse change” has occurred;



“**material fact**” has the meaning attributed to such phrase in the *Securities Act* (Ontario);

“**Party**” means any party to this Agreement;

“**Plan of Arrangement**” means the plan setting out the transactions giving effect to the Arrangement and in the form annexed as Appendix A to Schedule “A” to this Agreement;

“**Release**” includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, migration, disposal or dumping;

“**Replacement Options**” means options to acquire Excellon Common Shares that will be granted by Excellon to holders of Silver Eagle Options pursuant to the Arrangement;

“**Representatives**” means, collectively, the directors, officers, employees, counsel, accountants, financial advisors, consultants, agents and other authorized representatives of a Party or its Subsidiaries;

“**SEC**” means the United States Securities and Exchange Commission;

“**Securities Authorities**” means the applicable securities commissions and other securities regulatory authorities in each of the provinces and territories of Canada;

“**Silver Eagle Common Shares**” means the common shares in the authorized share capital of Silver Eagle;

“**Silver Eagle Contracts**” has the meaning ascribed thereto in Subsection 3.1(ee);

“**Silver Eagle Data Room Information**” means the documents listed in the index attached to the Silver Eagle Disclosure Letter;

“**Silver Eagle Debt Agreements**” has the meaning ascribed thereto in Subsection 3.1(n)(ii);

“**Silver Eagle Disclosure Letter**” means the disclosure letter executed by Silver Eagle and delivered to Excellon dated the date hereof;

“**Silver Eagle Financial Statements**” has the meaning ascribed thereto in Subsection 3.1(s);

“**Silver Eagle Meeting**” means the special meeting of the Silver Eagle Shareholders to be held pursuant to the Interim Order, called for the purpose of considering the Arrangement, including any adjournment or adjournments thereof;

“**Silver Eagle Optionholders**” means the holders from time to time of Silver Eagle Options;

“**Silver Eagle Options**” means options to acquire Silver Eagle Common Shares granted under the Silver Eagle Stock Option Plan;

“**Silver Eagle Prefeasibility Study**” means the technical report entitled *Technical Report on a Preliminary Feasibility Study of the Miguel Auza Project, Miguel Auza, Zacatecas, Mexico* dated July 25, 2008 authored by Wayne W. Valliant, James L. Pearson and Kevin C. Scott;

“**Silver Eagle Public Record**” has the meaning ascribed thereto in Subsection 3.1(q);

“**Silver Eagle Shareholder Approval**” has the meaning ascribed thereto in Subsection 2.2(a)(ii);

“**Silver Eagle Shareholders**” means the holders from time to time of Silver Eagle Common Shares;

“**Silver Eagle Stock Option Plan**” means Silver Eagle’s stock option plan as approved by the Silver Eagle Shareholders on August 8, 2006, as amended;

“**Silver Eagle Subsidiaries**” means 2158728 Ontario Inc., San Pedro Resources, S.A. de C.V., Servicios Mineros San Pedro, S.A. de C.V. and Prestadora de Servicios Miguel Auza, S.A. de C.V.;

“**Special Committee**” means the special committee of the board of directors of Silver Eagle;

“**Subsidiary**” means, with respect to a specified body corporate, any body corporate, partnership, limited partnership, trust or other entity controlled, directly or indirectly, by such body corporate and, for the purpose of this definition, “control” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of another, whether through the ownership of voting securities, by contract or otherwise;

“**Superior Proposal**” has the meaning ascribed thereto in Section 6.1;

“**Tax Act**” means the *Income Tax Act* (Canada);

“**Tax Returns**” means all returns, declarations, reports, information returns and statements required to be filed with any taxing authority relating to Taxes, including any attached schedules, claim for refund, amended return or declarations of estimated Tax;

“**Taxes**” means all taxes, fees, imports, assessments or charges of any kind whatsoever and however denominated, including any interest, penalties or other additions that may become payable in respect thereof, imposed by any Governmental Authority, which Taxes include all income taxes (including any tax on or based upon net income, gross income, income that is specifically defined, earnings, profits or selected items of income), capital taxes, gross receipts taxes, environmental taxes, sales taxes, use taxes, ad valorem taxes, value added taxes, transfer taxes, franchise taxes, license taxes, withholding taxes, payroll taxes, employment taxes, Canada Pension Plan premiums, excise, social security premiums, workers’ compensation premiums, unemployment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, property taxes, windfall profits taxes, alternative or add-on minimum taxes, goods and services tax, customs duties, pension or health plan assessments, mining taxes, mining or mineral royalties, governmental charges and other obligations of the same or of a similar nature to any of the foregoing, which a Party or any of its Subsidiaries is required to pay, withhold or collect;

“**Termination Fee**” means \$200,000;

“**Tribunal**” means:

- (d) any court (including a court of equity or civil court);
- (e) any multinational, federal, provincial, state, county, regional, municipal, local or other governmental or public commission, board, bureau, agency, authority or instrumentality;
- (f) any securities commission, stock exchange or other regulatory or self-regulatory body;
- (g) any board of trade, chamber of commerce or other business or professional organization or association;

- (h) any arbitrator or arbitration tribunal; and
- (i) any other tribunal,

“**TSX**” means the Toronto Stock Exchange;

“**U.S. Securities Act**” means the *United States Securities Act of 1933*, as amended;

“**U.S. Securities Exchange Act**” means the *United States Securities Exchange Act of 1934*, as amended; and

“**Voting Agreements**” means the voting agreements (including all amendments thereto) between Excellon and the Locked-up Shareholders dated the date hereof.

## 1.2 Construction

In this Agreement, unless otherwise expressly stated or the context or the subject matter otherwise requires:

- (a) the division of this Agreement into Articles, Sections and Subsections, the provision of a table of contents and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation hereof;
- (b) the words “**this Agreement**”, “**hereof**”, “**herein**”, “**hereto**”, “**hereunder**” and similar expressions refer to this Agreement as a whole and not to any particular Article, Section, Subsection or other part hereof and references to an “**Article**”, “**Section**”, “**Subsection**” or “**Schedule**” followed by a number and/or letter refers to the specified Article, Section or Subsection of, or Schedule to, this Agreement;
- (c) words importing the singular include the plural and *vice versa*, words importing any gender include all genders and words importing persons include individuals, corporations, general and limited partnerships, trusts, unincorporated associations or organizations, Governmental Authorities and other legal entities;
- (d) references to “**include**”, “**includes**”, “**including**” or “**in particular**” will be deemed to be followed by the words “**without limitation**”;
- (e) the word “**or**” is not exclusive;
- (f) a reference to “**approval**”, “**authorization**” or “**consent**” in this Agreement means written approval, authorization or consent;
- (g) reference to any statute is to that statute as now enacted or as the statute may from time to time be amended, re-enacted, supplemented or replaced and includes any regulation, rule or other subordinate legislation made thereunder, as such regulation, rule or subordinate legislation may from time to time be amended, supplemented or replaced;
- (h) if any date on which any action is required or permitted to be taken under this Agreement is not a Business Day, such action will be required or permitted to be taken on the next succeeding Business Day;

- (i) unless otherwise indicated, all references in this Agreement to sums of money are expressed and will be payable in lawful money of Canada;
- (j) all accounting terms used in this Agreement have the meanings attributable to them under GAAP and all determinations of an accounting nature required to be made will be made in a manner consistent with such GAAP;
- (k) reference to the “**knowledge**” of a Party means to the best of the knowledge of any of the officers of such Party, after having made due enquiry;
- (l) reference to the “**ordinary course of business**”, or any variation thereof, of any person refers to the business of such person, carried on in the regular and ordinary course, including commercially reasonable and business-like actions that are in the regular and ordinary course of business for a company operating in the industry in which such business is conducted; and
- (m) where a word, term or phrase is defined in this Agreement, its derivatives or other grammatical forms have a corresponding meaning.

### **1.3 Entire Agreement**

This Agreement constitutes the entire agreement and understanding between the Parties with respect to the Arrangement and other transactions contemplated hereby and supersede all other prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties with respect thereto. The Parties have not entered into this Agreement in reliance upon any representation, warranty or undertaking of any Party that is not expressly set out or referred to in this Agreement.

### **1.4 Governing Law**

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in Ontario and will be treated in all respects as a Ontario contract.

### **1.5 Attornment**

To the fullest extent permitted by applicable Law, the Parties hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario in respect of all matters arising under or in relation to this Agreement.

### **1.6 Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, then:

- (a) that provision will (to the extent of the invalidity, illegality or unenforceability) be deemed severed from this Agreement and will be given no effect;
- (b) the validity, legality or enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired by the severance of the invalid, illegal or unenforceable provisions thereof; and

- (c) the Parties will use all reasonable commercial efforts to replace each invalid, illegal or unenforceable provision with a valid, legal and enforceable substitute provision, the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

## 1.7 Waiver

No waiver by any Party will be effective unless in writing and any waiver will affect only the matter and the occurrence thereof specifically identified and will not extend to any other matter or occurrence.

## 1.8 Schedules

The following schedules are attached to this Agreement and will be deemed to be incorporated in and form a part hereof:

<u>Schedule</u>	<u>Title</u>
Schedule A	Arrangement Resolution
Schedule B	Directors and Officers of Silver Eagle

## ARTICLE 2 THE ARRANGEMENT

### 2.1 Arrangement

Silver Eagle and Excellon agree that the Arrangement will be implemented in accordance with and subject to the terms and conditions contained in this Agreement and the Plan of Arrangement.

### 2.2 Interim Order

- (a) As soon as reasonably practicable following the execution of this Agreement, Silver Eagle shall apply to the Court in a manner acceptable to Excellon, acting reasonably, pursuant to section 182(5) of the Act and prepare, file and diligently pursue an application for the Interim Order, which shall provide, among other things:
- (i) for the class of persons to whom notice is to be provided in respect of the Arrangement and the Silver Eagle Meeting and for the manner in which such notice is to be provided;
  - (ii) that the requisite approval for the Arrangement Resolution shall be 66 2/3% of the votes cast on the Arrangement Resolution by the Silver Eagle Shareholders present in person or by proxy at the Silver Eagle Meeting and voting as a single class (the “**Silver Eagle Shareholder Approval**”);
  - (iii) that, in all other respects, the terms, conditions and restrictions of the articles and by-laws of Silver Eagle, including the quorum requirement and other matters, shall apply in respect of the Silver Eagle Meeting;
  - (iv) for the grant of Dissent Rights as contemplated in the Plan of Arrangement;

- (v) for the notice requirements with respect to the presentation of the application to the Court for the Final Order;
  - (vi) that the Silver Eagle Meeting may be adjourned or postponed from time to time by Silver Eagle subject to the terms of this Agreement without the need for additional approval of the Court; and
  - (vii) that the record date for Silver Eagle Shareholders entitled to notice of and to vote at the Silver Eagle Meeting will not change in respect of any adjournment(s) of the Silver Eagle Meeting.
- (b) Silver Eagle shall advise the Court of its intention to rely upon Section 3(a)(10) of the U.S. Securities Act to implement the transactions contemplated hereby in respect of the Silver Eagle Shareholders and holders of Silver Eagle Options who are resident in the United States.

### **2.3 Silver Eagle Meeting**

- (a) Subject to the terms of this Agreement, Silver Eagle agrees to convene and conduct the Silver Eagle Meeting in accordance with the Interim Order, Silver Eagle's articles of incorporation, bylaws and applicable Law as soon as reasonably practicable.
- (b) Subject to Section 6.1, except as required for quorum purposes or otherwise permitted under this Agreement, Silver Eagle shall not adjourn (except as required by Law or by valid Silver Eagle Shareholder action), postpone or cancel (or propose or permit the adjournment, postponement or cancellation of) the Silver Eagle Meeting without Excellon's prior written consent.
- (c) Subject to the terms of this Agreement, Silver Eagle will use its commercially reasonable efforts to solicit proxies in favour of the approval of the Arrangement Resolution, including, if so requested by Excellon, using recognized proxy solicitation services.
- (d) Silver Eagle will advise Excellon, as Excellon may reasonably request, and at least on a daily basis on each of the last ten (10) Business Days prior to the date of the Silver Eagle Meeting, as to the aggregate tally of the proxies received by Silver Eagle in respect of the Arrangement Resolution.
- (e) Silver Eagle will promptly advise Excellon of any written notice of dissent or purported exercise by any Silver Eagle Shareholder of Dissent Rights received by Silver Eagle in relation to the Arrangement and any withdrawal of Dissent Rights received by Silver Eagle and, subject to applicable Law, any written communications sent by or on behalf of Silver Eagle to any Silver Eagle Shareholder exercising or purporting to exercise Dissent Rights in relation to the Arrangement.
- (f) Upon receipt by Silver Eagle from Excellon of all necessary documents required to be executed by it, Silver Eagle will use its best efforts to prepare or cause to be prepared and provide to Excellon lists of the holders of all classes and series of securities of Silver Eagle, including lists of the Silver Eagle Shareholders and the holders of Silver Eagle Options, as well as a security position listing from each depository of its securities, including The Canadian Depository for Securities Limited and The Depository Trust Company, as applicable, within five Business Days after the date hereof and will obtain

and deliver to Excellon thereafter on demand supplemental lists setting out any changes thereto, all such deliveries to be in printed form and, if available, in computer-readable format.

- (g) As soon as reasonably practicable following execution of this Agreement, Silver Eagle will convene a meeting of the Silver Eagle Board to approve the Circular.

## **2.4 Silver Eagle Circular**

- (a) Silver Eagle shall prepare, with the assistance of Excellon, the Circular in compliance in all material respects with applicable Securities Laws and file on a timely basis the Circular with respect to the Silver Eagle Meeting in all jurisdictions where the same is required to be filed and mail the same as required in accordance with all applicable Laws and with respect to the Circular, as required by the Interim Order, in all jurisdictions where the same is required, complying in all material respects with all applicable Laws on the date of mailing thereof and containing sufficient detail to enable the Silver Eagle Shareholders to form a reasoned judgement concerning the matters to be placed before them at the Silver Eagle Meeting and, subject to Section 2.4(c) below, containing full, true and plain disclosure of all material facts required by all applicable Laws to be disclosed thereunder (other than with respect to any information relating to Excellon and its affiliates, including Excellon Common Shares). Silver Eagle shall, in consultation with Excellon, use all commercially reasonable efforts to abridge the timing contemplated by National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*, as provided in Section 2.20 thereof (it being agreed that such efforts shall not necessarily include the making of an application for a waiver or exemption from such National Instrument).
- (b) Silver Eagle shall ensure that the Circular complies in all material respects with all applicable Securities Laws, and, without limiting the generality of the foregoing, that the Circular will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements contained therein not misleading in light of the circumstances in which they are made (other than in each case with respect to any information relating to Excellon and its affiliates, including Excellon Common Shares). In accordance with Section 2.2(b), Silver Eagle will include such information in the Circular that is necessary to evidence its desire to invoke Section 3(a)(10) of the U.S. Securities Act in respect of the Silver Eagle Shareholders and holders of Silver Eagle Options who are resident in the United States. Subject to Section 6.1, Silver Eagle will include in the Circular the unanimous recommendation of the Silver Eagle Board that Silver Eagle Shareholders vote in favour of the Arrangement Resolution, and a statement that each director of Silver Eagle intends to vote all of such director's Silver Eagle Common Shares (including any Silver Eagle Common Shares issued upon the exercise of any Silver Eagle Options) in favour of the Arrangement Resolution, subject to the other terms of this Agreement and the Voting Agreements.
- (c) Excellon shall provide to Silver Eagle all information regarding Excellon, its affiliates and the Excellon Common Shares, including any pro forma financial statements prepared in accordance with applicable Laws as required by the Interim Order or applicable Laws for inclusion in the Circular or in any amendments or supplements to such Circular. Excellon shall also use commercially reasonable efforts to obtain any necessary consents from any of its Qualified Persons, auditors and any other advisors to the use of any financial, technical or other expert information required to be included in, or incorporated

by reference into, the Circular and to the identification in the Circular of each such advisor. Excellon shall ensure that no such information will include any untrue statement of a material fact or omit to state a material fact required to be stated in the Circular in order to make any information so furnished or any information concerning Excellon not misleading in light of the circumstances in which it is disclosed and shall constitute full, true and plain disclosure of such information concerning Excellon and its subsidiaries.

- (d) Excellon and its legal counsel shall be given a reasonable opportunity to review and comment on the Circular prior to the Circular being printed and filed with the Securities Authorities, and reasonable consideration shall be given to any comments made by Excellon and its counsel, provided that all information relating solely to Excellon, its affiliates and the Excellon Common Shares included in the Circular shall be in form and content satisfactory to Excellon, acting reasonably. Silver Eagle shall provide Excellon with final copies of the Circular prior to the mailing to the Silver Eagle Shareholders.
- (e) Silver Eagle and Excellon shall each promptly notify each other if at any time before the Effective Date either becomes aware (in the case of Silver Eagle only with respect to Silver Eagle or its subsidiaries and in the case of Excellon only with respect to Excellon or its subsidiaries) that the Silver Eagle Circular contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements contained therein not misleading in light of the circumstances in which they are made, or that otherwise requires an amendment or supplement to the Circular and the Parties shall cooperate in the preparation of any amendment or supplement to the Circular, as required or appropriate, and Silver Eagle shall promptly mail or otherwise publicly disseminate any amendment or supplement to the Circular to Silver Eagle Shareholders and, if required by the Court or applicable Laws, file the same with the Securities Authorities and as otherwise required.

## **2.5 Securities Law Compliance**

Excellon and Silver Eagle shall cooperate and use their reasonable commercial efforts in good faith to take, or cause to be taken, all reasonable actions, including the preparation of any applications for orders, registrations, consents, filings, circulars and approvals and the preparation of any required documents, in each case as reasonably necessary to discharge their respective obligations under this Agreement and the Arrangement, and to complete any of transactions contemplated by this Agreement, including their obligations under applicable Securities Laws. It is acknowledged and agreed that, except as set forth below, Excellon shall not be required to file a prospectus or similar document or otherwise become subject to the securities laws of any jurisdiction (other than a province or territory of Canada) in order to complete the Arrangement. Excellon may elect, at its sole discretion, to make such securities and other regulatory filings in the United States or other jurisdictions as may be necessary or desirable in connection with the completion of the Arrangement. Silver Eagle shall use its commercially reasonable efforts to provide to Excellon all information regarding Silver Eagle and its affiliates as required by applicable Securities Laws in connection with such filings. Silver Eagle shall also use commercially reasonable efforts to obtain any necessary consents from any of its Qualified Persons, auditors and any other advisors to the use of any financial, technical or other expert information required to be included in such filings and to the identification in such filings of each such advisor.

## **2.6 Final Order**

If the Interim Order is obtained and the Arrangement Resolution is passed at the Silver Eagle Meeting by the Silver Eagle Shareholders as provided for in the Interim Order and as required by



applicable Law, Silver Eagle shall as soon as reasonably practicable thereafter, and, in any event, within three (3) Business Days following the approval of the Arrangement Resolution at the Silver Eagle Meeting, take all steps necessary or desirable to submit the Arrangement to the Court and diligently pursue an application for the Final Order pursuant to subsection 182(5)(f) of the Act.

## **2.7 Court Proceedings**

Subject to the terms of this Agreement, Excellon will cooperate with, assist and consent to Silver Eagle seeking the Interim Order and the Final Order, including by providing Silver Eagle on a timely basis any information required to be supplied by Excellon in connection therewith. Silver Eagle will provide legal counsel to Excellon with reasonable opportunity to review and comment upon drafts of all material to be filed with the Court in connection with the Arrangement, and will give reasonable consideration to all such comments. Silver Eagle will also provide legal counsel to Excellon on a timely basis with copies of any notice of appearance or notice of intent to oppose and any evidence served on Silver Eagle or its legal counsel in respect of the application for the Interim Order or the Final Order or any appeal therefrom. Subject to applicable Law, Silver Eagle will not file any material with the Court in connection with the Arrangement or serve any such material, and will not agree to modify or amend materials so filed or served, except as contemplated by this Section 2.7 or with Excellon's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed; provided that nothing herein shall require Excellon to agree or consent to any increase in Consideration or other modification or amendment to such filed or served materials that expands or increases Excellon's obligations set forth in any such filed or served materials or under this Agreement.

## **2.8 Articles of Arrangement and Effective Date**

The Articles of Arrangement shall implement the Plan of Arrangement. No later than the fifth Business Day after the satisfaction or, where not prohibited, the waiver (subject to applicable Law) of the conditions (excluding conditions that, by their terms, cannot be satisfied until the Effective Date, but subject to the satisfaction or, where not prohibited, the waiver of those conditions as of the Effective Date) set forth in Article 5, unless another time or date is agreed to in writing by the Parties, the Articles of Arrangement shall be filed by Silver Eagle with the Director. From and after the Effective Time, the Plan of Arrangement will have all of the effects provided by applicable Law, including the Act.

## **2.9 Issue of Excellon Common Shares**

Excellon will, following receipt by Silver Eagle of the Final Order and prior to the Effective Time, ensure that the Depositary has been provided with sufficient Excellon Common Shares in escrow to issue the aggregate Consideration pursuant to the Arrangement.

## **2.10 Silver Eagle Options**

All unexercised Silver Eagle Options held by Silver Eagle Optionholders shall, as at the Effective Time pursuant to the Arrangement and in accordance with the Plan of Arrangement, be exchanged for Replacement Options.

## **2.11 Preparation of Filings**

Excellon and Silver Eagle shall reasonably cooperate with each other in the prompt and diligent preparation of any application for the regulatory approvals with the Securities Authorities and any other orders, registrations, consents, filings, rulings, exemptions, no-action letters and approvals and the preparation of any documents reasonably deemed by either of the Parties to be necessary to discharge its

respective obligations under this Agreement or otherwise required or advisable under applicable Laws in connection with the Arrangement, this Agreement or the Plan of Arrangement, including, without limitation, the Circular.

## **2.12 Announcement and Shareholder Communication**

Excellon and Silver Eagle shall make a joint public announcement of the transactions contemplated hereby promptly following the execution of this Agreement by Excellon and Silver Eagle, the text and timing of such announcement to be approved by Excellon and Silver Eagle in advance, acting reasonably. Excellon and Silver Eagle agree to cooperate in the preparation of presentations, if any, to Silver Eagle Shareholders regarding the Plan of Arrangement, and no Party shall (a) issue any press release or otherwise make public announcements with respect to this Agreement or the Plan of Arrangement without the consent of the other Party (which consent shall not be unreasonably withheld or delayed) or (b) make any filing with any Governmental Authority, with the TSX with respect thereto without prior consultation with the other Party; provided, however, that the foregoing shall be subject to each Party's overriding obligation to make any disclosure or filing required under applicable Laws or stock exchange rules, and the Party making such disclosure shall use all commercially reasonable efforts to give prior oral or written notice to the other Party and reasonable opportunity to review or comment on the disclosure or filing, and if such prior notice is not possible, to give such notice immediately following the making of such disclosure or filing.

## **2.13 Withholding Taxes**

Excellon, Silver Eagle and the Depositary shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable to any person hereunder and from all dividends or other distributions otherwise payable to any former Silver Eagle Shareholder such amounts as Excellon, Silver Eagle or the Depositary may be required or permitted to deduct and withhold therefrom under any provision of applicable Laws in respect of Taxes. To the extent that such amounts are so deducted, withheld and remitted, such amounts shall be treated for all purposes under this Agreement as having been paid to the person to whom such amounts would otherwise have been paid.

# **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

## **3.1 Representations and Warranties of Silver Eagle**

Except as disclosed in the Silver Eagle Disclosure Letter, Silver Eagle represents and warrants to Excellon as follows and acknowledges that Excellon is relying upon these representations and warranties in entering into this Agreement:

### Organization

- (a) Silver Eagle is a corporation incorporated and validly existing under the laws of Ontario, has the corporate power and capacity to own or lease its property and assets and to carry on its business as presently owned, leased or conducted, and is duly registered, licensed or qualified to carry on business, and is in good standing, in each jurisdiction in which the character of its properties and assets, owned or leased, or the nature of its business make such qualification, registration or licensing necessary.

### Capitalization

- (b) Silver Eagle's authorized capital consists of an unlimited number of common shares without par value, of which, as of the date hereof, 55,465,222 Silver Eagle Common Shares are validly issued and outstanding as fully paid and non-assessable shares free of any pre-emptive rights.
- (c) The issued and outstanding Silver Eagle Common Shares are listed and posted for trading on the TSX.
- (d) Other than the issued and outstanding Silver Eagle Common Shares, there are no issued and outstanding shares in the capital of Silver Eagle.
- (e) Except for 5,091,667 Silver Eagle Options validly granted as of the date hereof under the Silver Eagle Stock Option Plan, all of which are held by Silver Eagle Optionholders, there are not now, and at the Effective Date there will not be, any options, warrants, conversion privileges, rights, agreements, understandings, commitments or other obligations (whether by law, pre-emptive or contractual) of Silver Eagle to:
  - (i) issue, sell, or deliver any shares or other ownership interests in Silver Eagle or securities or obligations of any kind convertible into or exchangeable for shares or other ownership interests in Silver Eagle; or
  - (ii) acquire any shares of or ownership interests in any other person.
- (f) There are not now, and at the Effective Date there will not be, any outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments based upon the book value, income, share price or any other attribute of Silver Eagle or its business or operations.
- (g) There are not now, and at the Effective Date there will not be, any outstanding bonds, debentures or other evidences of indebtedness of Silver Eagle having the right to vote (or convertible into or exchangeable for securities having the right to vote) with Silver Eagle Shareholders or on any matter.
- (h) All securities of Silver Eagle (including all options, warrants, rights or other convertible or exchangeable securities) have been issued in compliance, with all Applicable Securities Laws and all securities to be issued upon exercise of any such options, warrants, rights and other convertible or exchangeable securities will be issued in compliance with all Applicable Securities Laws.

### Subsidiaries

- (i) Each of the Silver Eagle Subsidiaries is a corporation incorporated and validly existing under the laws of its jurisdiction of incorporation, has the corporate power and capacity to own or lease its property and assets and to carry on its business as presently owned, leased or conducted by it, and is duly registered, licensed or qualified to carry on business, and is in good standing, in each jurisdiction in which the character of its properties and assets, owned or leased, or the nature of its business makes such qualification, registration or licensing necessary.

- (j) Silver Eagle, directly or indirectly, beneficially owns all of the issued and outstanding shares and other ownership interests of each of the Silver Eagle Subsidiaries and there are no contracts, commitments, agreements, understandings, arrangements or restrictions which require any Silver Eagle Subsidiary to issue, sell or deliver any shares in its share capital or other ownership interests, or any securities or obligations convertible into or exchangeable for, any shares of its share capital or other ownership interests.

Authority Relative to this Agreement

- (k) Silver Eagle has the corporate power and capacity to enter into and perform its obligations under this Agreement and all documents and agreements contemplated by this Agreement to which Silver Eagle is or will be a Party.
- (l) The execution and delivery of this Agreement by Silver Eagle and the performance by Silver Eagle of its obligations hereunder have been duly authorized by the board of directors of Silver Eagle and no other corporate proceeding on the part of Silver Eagle is necessary to authorize this Agreement or the transactions contemplated hereby, other than the approval of:
  - (i) the Circular and other matters relating solely thereto, by the board of directors of Silver Eagle;
  - (ii) materials to be filed with the Court in connection with the applications for the Interim and Final Orders by the board of directors of Silver Eagle;
  - (iii) any matters required by the Interim Order or the Final Order to be authorized by the board of directors of Silver Eagle or the Silver Eagle Shareholders; and
  - (iv) the Arrangement Resolution by the Silver Eagle Shareholders.
- (m) This Agreement has been duly executed and delivered by Silver Eagle and is a legal, valid and binding obligation of Silver Eagle, enforceable against Silver Eagle in accordance with its terms, subject to bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other laws relating to or affecting creditors' rights generally and to the availability of equitable remedies.
- (n) The execution and delivery by Silver Eagle of this Agreement does not, and the performance by Silver Eagle of its obligations hereunder and the completion of the Arrangement do not and will not:
  - (i) conflict with, violate or breach any provision of:
    - (A) Silver Eagle's constating documents or any resolution of their respective directors or shareholders;
    - (B) any applicable Laws (subject to obtaining the authorizations, consents and approvals referred to in Section 5.1), that would, individually or in the aggregate, have a material adverse effect on Silver Eagle or would prevent or delay completion of the Arrangement;

- (ii) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, require any consents to be obtained under, or give to others any rights of termination, amendment, acceleration or cancellation of or under, any credit agreement, note, bond, mortgage, indenture or other similar contract, agreement or instrument relating to indebtedness for borrowed money (the “**Silver Eagle Debt Agreements**”) to which Silver Eagle is a party or by which Silver Eagle or any of its properties or assets is bound or affected;
- (iii) result in any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, require any consent to be obtained under, or give to others any rights of termination, amendments, acceleration or cancellation of or under:
  - (A) any licence, permit (including any Environmental Permit), certificate, order, consent, approval or other authorization of Silver Eagle or by which Silver Eagle or any of its properties or assets is bound or affected, that would, individually or in the aggregate, have a material adverse effect on Silver Eagle or would prevent or delay completion of the Arrangement;
  - (B) any agreement, arrangement, commitment or understanding to which Silver Eagle is a party or by which Silver Eagle or any of its properties or assets is bound or affected that would, individually or in the aggregate, have a material adverse effect on Silver Eagle or would prevent or delay completion of the Arrangement;
- (iv) result in the imposition of an Encumbrance upon any of the properties or assets of Silver Eagle that would, individually or in the aggregate, have a material adverse effect on Silver Eagle; or
- (v) give rise to any option, right or first refusal or similar right becoming exercisable by a third party that would have a material adverse effect on Silver Eagle or prevent or delay the completion of the Arrangement.

#### Fairness Opinion

- (o) The Special Committee and the Silver Eagle Board have received the opinion of Haywood Securities Ltd., the financial advisor to the Special Committee and the Silver Eagle Board, to the effect that, as of the date of such opinion, subject to the assumptions and limitations set out therein, the Consideration to be received by the Silver Eagle Shareholders (other than Excellon and its affiliates) in connection with the transactions contemplated by this Agreement is fair, from a financial point of view, to such Silver Eagle Shareholders (other than Excellon and its affiliates).

#### Disclosure

- (p) Silver Eagle is a “reporting issuer” or the equivalent under the Applicable Canadian Securities Laws of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

- (q) Since January 1, 2008, Silver Eagle has prepared and filed with appropriate Governmental Authorities all documents required to be filed by it under Applicable Securities Laws (collectively, the “**Silver Eagle Public Record**”) and such documents, as of the time they were filed:
- (i) did not contain any misrepresentations (as defined in applicable Canadian Securities Laws relating to such document);
  - (ii) did not fail to state a material fact required to be stated in order to make the statements contained in such document not misleading in light of the circumstances in which they were made; and
  - (iii) complied in all material respects with the requirements of Applicable Securities Laws.
- (r) Silver Eagle has not filed a confidential material change report or the equivalent thereof under Applicable Securities Laws with any Governmental Authority that currently remains confidential.

#### Financial Statements

- (s) Silver Eagle's audited consolidated financial statements as at and for the fiscal year ended December 31, 2007 (including the notes thereto) and Silver Eagle's unaudited consolidated financial statements as at and for the nine months ended September 30, 2008 (collectively, the “**Silver Eagle Financial Statements**”) were prepared in accordance with GAAP consistently applied (except (i) as otherwise indicated in such financial statements and the notes thereto or, in the case of the audited consolidated financial statements, in the related report of Silver Eagle's independent auditors, or (ii) in the case of unaudited consolidated interim financial statements, are subject to normal period-end adjustments and may omit notes which are not required by applicable Laws in the unaudited statements) and fairly present, in all material respects, the consolidated financial position, results of operations and cash flows of Silver Eagle and the Silver Eagle Subsidiaries as of the dates thereof and for the periods indicated therein (subject, in the case of any unaudited consolidated interim financial statements, to normal period-end adjustments) and reflect reserves required by GAAP in respect of all material contingent liabilities, if any, of Silver Eagle and the Silver Eagle Subsidiaries on a consolidated basis. There has been no material change in Silver Eagle's accounting policies, except as described in the notes to the Silver Eagle Financial Statements, since December 31, 2007.

#### Material Liabilities

- (t) Silver Eagle does not have any material liabilities or obligations of any nature (whether contingent or absolute, whether accrued or unaccrued, whether liquidated or unliquidated and whether due or to become due, including any liability for Taxes), including guarantees, support obligations or other similar obligations with respect to the obligations of any person, except liabilities and obligations adequately reflected or reserved against in the audited financial statements of Silver Eagle as at and for the financial year ended December 31, 2007 or in the interim unaudited financial statements of Silver Eagle as at and for the financial period ended September 30, 2008 or incurred in the ordinary course of business since the end of such periods.

### Books and Records

- (u) The books, records and accounts of Silver Eagle, in all material respects:
  - (i) have been maintained in accordance with good business practices on a basis consistent with prior years;
  - (ii) are stated in reasonable detail and accurately and fairly reflect the transactions, including the acquisition and disposition of properties and assets, of Silver Eagle; and
  - (iii) accurately and fairly reflect the basis for Silver Eagle's financial statements.

### Minute Books

- (v) The minute books of Silver Eagle and each of the Silver Eagle Subsidiaries are true, correct and complete in all material respects.

### Silver Eagle Data Room

- (w) All Silver Eagle Data Room Information was accurate in all material respects as at its respective date as stated therein, or, if any Silver Eagle Data Room Information was undated, as of the date of its delivery to Excellon for purposes of the transactions contemplated by this Agreement. Additionally, all information provided to Excellon in relation to Excellon's due diligence requests, including information not provided in the Silver Eagle Data Room Information, is accurate in all material respects as at its respective date as stated therein. To the extent that there has been a material change to any of the Silver Eagle Data Room Information or any other information provided to Excellon since the date provided to Excellon, such information is accurate in all material respects or is no longer relevant or material to Silver Eagle or additional information has been provided in the Silver Eagle data room or to Excellon which supersedes or replaces such information.

### Disclosure Controls and Procedures

- (x) Silver Eagle has devised and maintained a system of disclosure controls and procedures designed to ensure that information required to be disclosed by Silver Eagle under applicable Securities Laws is recorded, processed, summarized and reported within the time periods specified in the applicable Securities Laws. Such disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by Silver Eagle in the reports and other filings under applicable Securities Laws is accumulated and communicated to Silver Eagle's management, including its principal executive and principal financial officers, or Persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

### Internal Control over Financial Reporting

- (y) Silver Eagle maintains internal control over financial reporting. Such internal control over financial reporting is effective in providing reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external

purposes in accordance with GAAP and includes policies and procedures that: (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of Silver Eagle and the Silver Eagle Subsidiaries; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of Silver Eagle and the Silver Eagle Subsidiaries are being made only in accordance with authorizations of management and directors of Silver Eagle and the Silver Eagle Subsidiaries; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of Silver Eagle's and the Silver Eagle Subsidiaries' assets that could have a material effect on its financial statements. To the knowledge of Silver Eagle, prior to the date of this Agreement: (A) there are no significant deficiencies in the design or operation of, or material weaknesses in, Silver Eagle's internal controls over financial reporting that are reasonably likely to adversely affect the ability to record, process, summarize and report financial information on or after the Effective Time, and (B) there is no fraud, whether or not material, that involves management or other employees who have a significant role in Silver Eagle's internal control over financial reporting. Since December 31, 2007 and prior to the date of this Agreement, Silver Eagle has received no (x) material complaints from any source regarding accounting, internal accounting controls or auditing matters or (y) expressions of concern from employees of Silver Eagle regarding questionable accounting or auditing matters.

#### Absence of Changes

- (z) Except as disclosed in the Silver Eagle Public Record, since January 1, 2008, Silver Eagle has conducted its business only in the ordinary course of business and consistent with past practice and:
  - (i) no material adverse change has occurred with respect to Silver Eagle;
  - (ii) Silver Eagle has not incurred liabilities or obligations of any nature (whether absolute, accrued, contingent or otherwise) which would, individually or the aggregate, have an, adverse material effect on Silver Eagle;
  - (iii) Silver Eagle has not experienced any damage, destruction or loss, whether covered by insurance or not, that would have a material adverse effect on Silver Eagle;
  - (iv) Silver Eagle has not acquired or sold property or assets aggregating more than five percent of Silver Eagle's total property and assets as at December 31, 2007;
  - (v) Silver Eagle has not entered into, amended, relinquished, terminated or failed to renew any material agreement, arrangement, commitment, understanding, licence, permit, certificate, order, consent, approval or authorization that would individually or in the aggregate, have a material adverse affect on Silver Eagle;
  - (vi) there has been no increase in or modification to the compensation payable or to become payable by Silver Eagle to any of its directors, officers or employees, or any grant by Silver Eagle to any of its directors, officers or employees of any increase in severance or termination pay, except in the ordinary course of business;



- (vii) there has not been any increase in or modification to any Benefit Plan for any of Silver Eagle's current or former employees or consultants (or their relatives), except in the ordinary course of business;
- (viii) Silver Eagle has not made any material change in its accounting methods, principles or practices, including the basis upon which its assets and liabilities are recorded on its books or its earnings, profits and losses are ascertained;
- (ix) Silver Eagle has not amended its constating documents;
- (x) Silver Eagle has not declared, paid or set aside for payment any dividend or distribution of any kind in respect of any of its outstanding securities or made any repayments of capital;
- (xi) Silver Eagle has not redeemed, repurchased or otherwise acquired any Silver Eagle Common Shares;
- (xii) no resolution to approve a subdivision, consolidation or reclassification of any of the Silver Eagle Common Shares has been approved by or presented to the Silver Eagle Shareholders; and
- (xiii) Silver Eagle has not entered into any agreements, arrangements, commitments or understandings to take any action which, if taken prior to the date of this Agreement, would have made any representation or warranty of Silver Eagle in this Agreement materially untrue or incorrect as of the date when made.

#### Restrictions on Business Activities

- (aa) Except as provided in or resulting from the implementation of the transactions contemplated by the letter of intent dated February 18, 2009 between the parties, there are no agreements, arrangements, commitments, understandings, judgments, orders, warrants, writs, injunctions or decrees binding upon Silver Eagle that has or could have the effect of prohibiting or materially restricting or impairing any business practice of Silver Eagle, any acquisition of property or assets by Silver Eagle or the conduct of business by Silver Eagle as currently conducted, other than any such agreements, arrangements, commitments, understandings, judgments, orders, awards, writs, injunctions or decrees which would not, individually or in the aggregate, have a material adverse effect on Silver Eagle.

#### Compliance

- (bb) Silver Eagle has complied with and is not in violation of:
  - (i) its constating documents, or any resolution of its directors or shareholders; or
  - (ii) any applicable Laws;

other than instances of non-compliance or violations that would not, individually or in the aggregate, have a material adverse effect on Silver Eagle.

### Regulatory Approvals

- (cc) No consent, approval, order or authorization of, or filing with, any Governmental Authority with jurisdiction over Silver Eagle or any of its properties, assets or businesses is required to be obtained by Silver Eagle in connection with the execution and delivery by Silver Eagle of this Agreement, the performance by Silver Eagle of its obligations hereunder or the completion of the Arrangement other than:
  - (i) in connection with or in compliance with Applicable Securities Laws;
  - (ii) obtaining the Interim Order and Final Order, obtaining any approvals required by the Interim Order or the Final Order and filing the Articles of Arrangement and all related notices and reports; and
  - (iii) authorizations, consents, approvals, orders or filings, the failure of which to obtain or make would not, individually or in the aggregate, prevent or delay completion of the Arrangement or have a material adverse effect on Silver Eagle.

### Licenses and Permits

- (dd) Silver Eagle owns, possesses or has obtained and is in compliance with all licences, permits (including Environmental Permits), certificates, orders, consents, approvals and other authorizations of or from any Governmental Authority necessary to conduct its business as now conducted, except for such licences, Permits, consents and other authorizations, the failure to own, possess, obtain or be in compliance with which would not, individually or in the aggregate, have a material adverse effect on Silver Eagle.

### Material Contracts

- (ee) Silver Eagle has provided to Excellon a list of and has made available to Excellon for review all of the agreements, arrangements, commitments and understandings to which Silver Eagle is a party or by which Silver Eagle or any of its properties or assets is bound or affected that are material to the business and operations of Silver Eagle (collectively the “**Silver Eagle Contracts**”).
- (ff) Each Silver Eagle Contract is a valid and binding agreement of Silver Eagle is in full force and effect.
- (gg) Silver Eagle is not in breach of, and no event of default (including an event which with notice or lapse of time or both would become a default) relating to Silver Eagle has occurred under any Silver Eagle Contract and, to the knowledge of Silver Eagle, none of the other parties to any of the Silver Eagle Contracts are in breach of and no event of default (including an event which with notice or lapse of time or both would become a default) relating to such other party has occurred under any of the Silver Eagle Contracts, except for breaches or events of default that have been cured or waived or breaches or events of default that would not, individually or in the aggregate, have a material adverse effect on Silver Eagle.

Employment Matters

- (hh) Silver Eagle has provided to Excellon complete copies of, or information describing the material terms of:
  - (i) all employment agreements or contracts for services between Silver Eagle and any of its directors, officers or employees who have an annual salary greater than \$100,000;
  - (ii) all written or oral policies, agreements, obligations or understandings providing for severance or termination payments to any director, officer or employee of Silver Eagle, except for obligations to provide reasonable notice to employees hired for indefinite terms who are dismissed without cause; and
  - (iii) all Benefit Plans of Silver Eagle.
- (ii) There are no current, pending or, to the knowledge of Silver Eagle, threatened strikes or lockouts at any of Silver Eagle's facilities.
- (jj) Silver Eagle is not subject to any claim for wrongful dismissal, constructive dismissal or any other claim in contract or in tort, nor is any such claim or any litigation, arbitration or mediation pending or, to the knowledge of Silver Eagle, threatened, relating to employment or termination of employment of employees or independent contractors, other than claims, litigation, arbitration or mediation that, individually or in aggregate, amount to less than \$50,000.
- (kk) Silver Eagle has operated in all material respects in accordance with all applicable Laws with respect to employment and labour, including employment and labour standards, occupational health and safety laws, workers' compensation, social insurance and pension contribution, human rights and labour relations, and there are no pending or, to the knowledge of Silver Eagle, threatened proceedings against Silver Eagle before any Governmental Authority with respect to any of the foregoing matters, other than claims, litigation, arbitration or proceedings that, individually or in aggregate, amount to less than \$50,000.
- (ll) The execution and delivery of this Agreement, the performance by Silver Eagle of its obligations under this Agreement and the completion of the Arrangement will not constitute an event or condition under any Benefit Plan that entitles an employee or former employee to a payment, promise of payment, acceleration or vesting of any other benefit to which that individual would not otherwise be entitled.

Title to Properties and Assets

- (mm) Silver Eagle has good and sufficient right and title to its properties and assets (other than property and assets as to which Silver Eagle is a lessee, in which case it has a valid lease interest) and to its mineral interests and rights (including any claims, concessions, exploration licences, exploitation licences, prospecting permits, royalty interests, mining leases and mining rights) necessary to permit the operation of its business as presently conducted, except for such defect in title that, individually or in the aggregate, would not have a material adverse effect on Silver Eagle.

- (nn) The properties, assets and mineral rights in which Silver Eagle holds an interest are held free and clear of all Encumbrances.
- (oo) Silver Eagle has not received notice of any default in its title to any of its properties, assets or mineral rights, which default is continuing and, individually or in the aggregate, would have a material adverse affect on Silver Eagle or subject the title of Silver Eagle to any of its properties or assets to cancellation or termination.

#### Mineral Reserves

- (pp) The measured, indicated and inferred resources and proven and probable reserves for the various mineral properties in which Silver Eagle or any of the Silver Eagle Subsidiaries holds an interest, as set forth in the Silver Eagle Prefeasibility Study, were prepared in accordance with sound mining, engineering, geoscience and other applicable industry standards and practices, and in accordance with the requirements of National Instrument 43-101 *Standards of Disclosure for Mineral Projects* and were, at such date, true and correct in all material respects.

#### Environmental Matters

- (qq) Except for matters that would not, individually or in the aggregate, have a material adverse effect on Silver Eagle:
  - (i) Silver Eagle is in possession of all licenses, permits, certificates, orders, consents, approvals or other authorizations necessary under Environmental Laws to own, lease and operate its properties and to conduct its respective business and operations as now conducted (collectively, the “**Environmental Permits**”); and
  - (ii) Silver Eagle (and its businesses and operations) have been and are now in material compliance with all Environmental Permits and Environmental Laws.
- (rr) Silver Eagle is not subject to:
  - (i) any Environmental Permits or Environmental Laws that require or may require:
    - (A) any material work, repairs, construction, change in business practices or operations; or
    - (B) any expenditures, including capital expenditures, for facility upgrades, Environmental investigation and remediation expenditures, or any other similar expenditures;
  - (ii) any written demand, written notice of default, summons, notice of judgment or commencement of proceedings with respect to any breach, liability or remedial action (or any alleged breach, liability or remedial action) arising under Environmental Laws;
  - (iii) any obligation to remedy, pay compensation, or make any payment in the nature of a fine in relation to any breach of Environmental Permits or Environmental Laws;

- (iv) or aware of any pending, material renewal, modification, revocation, reissuance, alteration, transfer or amendment of any Environmental Permit; or
- (v) or aware of any pending, review by, or approval of, any Governmental Authority required, in relation to Environmental Permit or Environmental Laws, in connection with the execution and delivery of this Agreement, the completion of the Arrangement or the continuation of the business or operations of Silver Eagle following completion of the Arrangement,

that would, individually or in the aggregate, have a material adverse effect on Silver Eagle.

#### Litigation

- (ss) There is no claim, suit, action, arbitration, review, proceeding or investigation pending, or to the knowledge of Silver Eagle, threatened by or against Silver Eagle or affecting any of its properties, assets or businesses before or by any Governmental Authority that if adversely determined, individually or in the aggregate, would have a material adverse effect on Silver Eagle or prevent or delay consummation of the Arrangement or the other transactions contemplated by this Agreement, nor to the knowledge of Silver Eagle is there any basis for any such claim, suit, action, arbitration, review, proceeding or investigation.
- (tt) Neither Silver Eagle nor any of its assets, properties or businesses, is subject to an outstanding judgment, order, decision, ruling, decree, award or injunction exceeding \$50,000 or which would have a material adverse effect on Silver Eagle or prevent or delay consummation of the Arrangement or the other transactions contemplated by this Agreement.

#### Insurance

- (uu) Silver Eagle has policies of insurance currently in force naming one or more of Silver Eagle or a Silver Eagle Subsidiary as an insured as included in the Silver Eagle Data Room Information. All such policies of insurance will remain in force and effect from the date hereof to and including the Effective Date and will not be cancelled or otherwise terminated as a result of the Arrangement or the other transactions contemplated by this Agreement other than such cancellations as would not, individually or in the aggregate, have a material adverse affect on Silver Eagle.

#### Tax Matters

- (vv) Except as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect with respect to Silver Eagle:
  - (i) Silver Eagle and each Silver Eagle Subsidiary has duly and in a timely manner made or prepared all Tax Returns required to be made or prepared by it, and duly and in a timely manner filed all Tax Returns required to be filed by it with the appropriate Governmental Authority, such Tax Returns are complete and correct in all material respects and Silver Eagle and each Silver Eagle Subsidiary has paid all Taxes, including instalments on account of Taxes for the current year required by applicable Law, which are due and payable by it whether or not

assessed by the appropriate Governmental Entity and Silver Eagle has provided adequate accruals in accordance with GAAP in the most recently published financial statements of Silver Eagle for any Taxes for the period covered by such financial statements that have not been paid whether or not shown as being due on any Tax Returns. Since such publication date, no material liability in respect of Taxes not reflected in such statements or otherwise provided for has been assessed, proposed to be assessed, incurred or accrued, other than in the ordinary course of business;

- (ii) Silver Eagle and each Silver Eagle Subsidiary has duly and timely withheld all Taxes and other amounts required by Law to be withheld by it (including Taxes and other amounts required to be withheld by it in respect of any amount paid or credited or deemed to be paid or credited by it to or for the benefit of any person) and has duly and timely remitted to the appropriate Governmental Authority such Taxes or other amounts required by applicable Law to be remitted by it;
- (iii) Silver Eagle and each Silver Eagle Subsidiary has duly and timely collected all amounts on account of any sales or transfer Taxes, including goods and services, harmonized sales and provincial and territorial taxes, required by Law to be collected by it and has duly and timely remitted to the appropriate Governmental Authority such amounts required by Law to be remitted to it;
- (iv) other than actions in the ordinary course, there are no actions, suits, proceedings, investigations or claims threatened against Silver Eagle or any Silver Eagle Subsidiary in respect of Taxes, or any matters under discussion with any Governmental Authority relating to Taxes asserted by any such authority;
- (v) neither Silver Eagle nor any Silver Eagle Subsidiary has requested, offered to enter into or entered into any agreement or other arrangement, or executed any waiver, providing for any extension of time within which: (A) to file any Tax Return covering any Taxes for which Silver Eagle or any Silver Eagle Subsidiary is or may be liable; (B) to file any elections, designations or similar filings relating to Taxes for which Silver Eagle or any Silver Eagle Subsidiary is or may be liable; (C) Silver Eagle or any Silver Eagle Subsidiary is required to pay or remit any Taxes or amounts on account of Taxes; or (D) any Governmental Authority may assess or collect Taxes for which Silver Eagle or any Silver Eagle Subsidiary is or may be liable;
- (vi) other than ordinary course audits and claims, there are no proceedings, investigations audits or claims in progress or, to the knowledge of Silver Eagle, pending or threatened against Silver Eagle nor any Silver Eagle Subsidiary in respect of Taxes and there are no matters under discussion, audit or appeal with any Governmental Authority relating to Taxes;
- (vii) neither Silver Eagle nor any Silver Eagle Subsidiary has acquired property from a non-arm's length person, within the meaning of the Tax Act: (A) for consideration the value of which is less than the fair market value of the property; or (B) as a contribution of capital for which no shares were issued by the acquirer of the property;

- (viii) Silver Eagle has made available to Excellon copies of: (A) all Tax Returns relating to the Taxes of Silver Eagle or any Silver Eagle Subsidiary that to the knowledge of Silver Eagle have been filed in the last three (3) years; and (B) all material written communications to or from any Governmental Authority relating to the Taxes of Silver Eagle or any Silver Eagle Subsidiary that to the knowledge of Silver Eagle has been received or sent in the last three (3) years;
- (ix) for the purposes of the Tax Act: (A) Silver Eagle is resident in Canada; and (B) other than 2158728 Ontario Inc., each of the Silver Eagle Subsidiaries is not resident in Canada; and
- (x) there are no Encumbrances for Taxes upon any properties or assets of Silver Eagle or of any of the Silver Eagle Subsidiaries (other than Liens relating to Taxes not yet due and payable and for which adequate reserves have been recorded on the consolidated balance sheet included in Silver Eagle's audited consolidated financial statements as at and for the year ended December 31, 2007).

#### Competition Act

- (ww) Neither the aggregate value of the assets in Canada of Silver Eagle nor the gross proceeds from sales in or from Canada generated from such assets exceeds \$50 million as determined in accordance with Part IX of the *Competition Act* (Canada) and the regulations thereunder.

#### Acquisition Proposals

- (xx) No Acquisition Proposal is currently under discussion, consideration or negotiation by Silver Eagle or, to its knowledge, any of its Representatives.

#### Fees and Commissions

- (yy) No person is entitled to any broker's or finder's fee or other fee, commission or compensation payable by Silver Eagle in connection with the Arrangement or any of the other transactions contemplated by this Agreement, except for:
  - (i) fees payable to Silver Eagle's legal, financial and accounting advisors; and
  - (ii) filing fees payable to Governmental Authorities in the ordinary course in respect of the Arrangement.

#### Absence of Cease Trade Orders

- (zz) No order ceasing or suspending trading of the Silver Eagle Common Shares or any other securities of Silver Eagle has been issued by any regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or, to the knowledge of Silver Eagle, are pending, contemplated or threatened under and Securities Laws or by any other regulatory authority.

#### Related Party Transactions

- (aaa) Except as contemplated hereby, there are no contracts or other transactions currently in place between Silver Eagle or any Silver Eagle Subsidiary, on the one hand, and (i) to the knowledge of Silver Eagle, any officer or director of Silver Eagle or any Silver Eagle Subsidiary; (ii) to the knowledge of Silver Eagle, any holder of record or, to the knowledge of Silver Eagle, beneficial owner of 10% or more of the Silver Eagle Common Shares; and (iii) to the knowledge of Silver Eagle, any affiliate or associate (including any spouse, parent, sibling or descendant of such person and any trust for the benefit of any of the foregoing persons) of any such, officer, director, holder of record or beneficial owner, on the other hand.

#### Expropriation

- (bbb) Since December 31, 2007, no material part of the property or assets of Silver Eagle or any Silver Eagle Subsidiary has been taken, condemned or expropriated by any Governmental Authority nor has any written notice, acknowledgement or proceeding in respect thereof been received by Silver Eagle or any Silver Eagle Subsidiary.

#### Rights of Other Persons

- (ccc) No person has any right of first refusal or option to purchase or any other right of participation in any of the material properties or assets owned by Silver Eagle, any Silver Eagle Subsidiary or any part thereof.

#### Restrictions on Business Activities

- (ddd) There is no contract, agreement, undertaking, arbitral award, judgment, injunction, constitutional ruling, order or decree binding upon Silver Eagle or any Silver Eagle Subsidiary that has or would reasonably be expected to have the effect of prohibiting, restricting, or impairing any business practice of any of them, any acquisition or disposition of property by any of them, or the conduct of the business by any of them as currently conducted, which would reasonably be expected to have a material adverse effect on Silver Eagle.

#### Registration Rights

- (eee) No Silver Eagle Shareholder has any right to compel Silver Eagle to register or otherwise qualify the Silver Eagle Common Shares (or any of them) for public sale or distribution;

#### United States Securities Laws

- (fff) Silver Eagle is a “foreign private issuer” as defined in Rule 3b-4 under the U.S. Securities Exchange Act and Silver Eagle is not required to register as an “investment company” under the United States *Investment Company Act of 1940*, as amended.

#### Circular

- (ggg) The information that will be contained in the Circular with respect to Silver Eagle will be true and complete in all material respects, will not contain any misrepresentation (as defined in Canadian Securities Laws), will not contain an untrue statement of a material



fact, will not omit to state any material fact relating thereto required to be stated or which is necessary in order to make the statements made therein not misleading in light of the circumstances under which they were made, and all financial statements of Silver Eagle contained therein or incorporated therein by reference will present fairly its financial position as of the dates provided therein and the results of its operations and changes in financial position for the periods then ended and will be prepared in accordance with GAAP consistently applied.

### **3.2 Representations and Warranties of Excellon**

Except as disclosed in the Excellon Disclosure Letter, Excellon represents and warrants to Silver Eagle as follows and acknowledges that Silver Eagle is relying upon these representations and warranties in entering into this Agreement:

#### Organization

- (a) Excellon is a corporation incorporated and validly existing under the laws of British Columbia, has the corporate power and capacity to own or lease its property and assets and to carry on its business as presently owned, leased or conducted, and is duly registered, licensed or qualified to carry on business, and is in good standing, in each jurisdiction in which the character of its properties and assets, owned or leased, or the nature of its business make such qualification, registration or licensing necessary.

#### Capitalization

- (b) Excellon's authorized capital consists of an unlimited number of common shares without par value, of which, as of the date hereof, 159,843,657 Excellon Common Shares are validly issued and outstanding as fully paid and non-assessable shares.
- (c) The issued and outstanding Excellon Common Shares are listed and posted for trading on the TSX.
- (d) Other than the issued and outstanding Excellon Common Shares, there are no issued and outstanding shares in the capital of Excellon.
- (e) Except for 12,600,000 Excellon Options validly granted as of the date hereof under the Excellon Stock Option Plan and 2,120,000 outstanding common share purchase warrants, there are no options, warrants, conversion privileges, rights, agreements, understandings, commitments or other obligations (whether by law, pre-emptive or contractual) of Excellon to issue, sell or deliver any shares or other ownership interests in Excellon or securities or obligations of any kind convertible into or exchangeable for shares or other ownership interests in Excellon.
- (f) There are no outstanding stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments based upon the book value, income, share price or any other attribute of Excellon or its business or operations.
- (g) There are no outstanding bonds, debentures or other evidences of indebtedness of Excellon having the right to vote (or convertible into or exchangeable for securities having the right to vote) with Excellon Shareholders on any matter.

- (h) Following the Effective Date, the Excellon Common Shares and Replacement Options to be issued in connection with the Arrangement will not be subject to any statutory hold or restricted period under the U.S. Securities Act or the rules promulgated thereunder, or under any blue sky or state securities laws, subject to the restrictions on transfer applicable to “affiliates” (as defined in the U.S. Securities Act) of Excellon.

#### Subsidiaries

- (i) Each of the Excellon Subsidiaries is a corporation incorporated and validly existing under the laws of its jurisdiction of incorporation, has the corporate power and capacity to own or lease its property and assets and to carry on its business as presently owned, leased or conducted by it, and is duly registered, licensed or qualified to carry on business, and is in good standing, in each jurisdiction in which the character of its properties and assets, owned or leased, or the nature of its business makes such qualification, registration or licensing necessary.
- (j) Excellon, directly or indirectly, beneficially owns all of the issued and outstanding shares and other ownership interests of each of the Excellon Subsidiaries and there are no contracts, commitments, agreements, understandings, arrangements or restrictions which require any Excellon Subsidiary to issue, sell or deliver any shares in its share capital or other ownership interests, or any securities or obligations convertible into or exchangeable for, any shares of its share capital or other ownership interests

#### Authority Relative to this Agreement

- (k) Excellon has the corporate power and capacity to enter into and perform its obligations under this Agreement and all documents and agreements contemplated by this Agreement to which Excellon is or will be a party.
- (l) The execution and delivery of this Agreement by Excellon and the performance by Excellon of its obligations hereunder have been duly authorized by the board of directors of Excellon and no other corporate proceeding on the part of Excellon is necessary to authorize this Agreement or the transactions contemplated hereby or thereby.
- (m) This Agreement has been duly executed and delivered by Excellon and is a legal, valid and binding obligation of Excellon, enforceable against Excellon in accordance with its terms, subject to bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other laws relating to or affecting creditors’ rights generally and to the availability of equitable remedies.
- (n) The execution and delivery by Excellon of this Agreement does not, and the performance by Excellon of its obligations hereunder and thereunder and the completion of the Arrangement do not and will not:
  - (i) conflict with, violate or breach any provision of:
    - (A) Excellon’s or any of its Subsidiaries’ constating documents or any resolution of their respective directors or shareholders; or
    - (B) any applicable Laws (subject to obtaining the authorizations, consents and approvals referred to in Section 5.1), that would, individually or in

the aggregate, have a material adverse effect on Excellon or would prevent or delay completion of the Arrangement;

- (ii) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, require any consents to be obtained under, or give to others any rights of termination, amendment, acceleration or cancellation of or under, any credit agreement, note, bond, mortgage, indenture or other similar contract, agreement or instrument relating to indebtedness for borrowed money (the “**Excellon Debt Agreements**”) to which Excellon or any of its Subsidiaries is a party or by which Excellon or any of its Subsidiaries or any of their respective properties or assets is bound or affected;
- (iii) result in any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, require any consent to be obtained under, or give to others any rights of termination, amendments, acceleration or cancellation of or under:
  - (A) any license, permit (including any Environmental Permit), certificate, order, consent, approval or other authorization of Excellon or any of its Subsidiaries or by which Excellon, any of its Subsidiaries or any of their respective properties or assets is bound or affected, that would, individually or in the aggregate, have a material adverse effect on Excellon or would prevent or delay completion of the Arrangement;
  - (B) any agreement, arrangement, commitment or understanding to which Excellon or any of its Subsidiaries is a party or by which Excellon, any of its Subsidiaries or any of their respective properties or assets is bound or affected that would, individually or in the aggregate, have a material adverse effect on Excellon or would prevent or delay completion of the Arrangement;
- (iv) result in the imposition of an Encumbrance upon any of the properties or assets of Excellon or any of its Subsidiaries that would, individually or in the aggregate, have a material adverse effect on Excellon; or
- (v) give rise to any option, right of first refusal or similar right becoming exercisable by a third party that would have a material adverse effect on Excellon or prevent or delay the completion of the Arrangement.

#### Disclosure

- (o) Excellon is a “reporting issuer” or the equivalent under the Applicable Securities Laws of each of the Provinces of British Columbia, Alberta and Ontario.
- (p) Since August 1, 2008 Excellon has prepared and filed with appropriate Governmental Authorities all documents required to be filed by it under Applicable Securities Laws (collectively, the “**Excellon Public Record**”) and such documents, as of the time they were filed:
  - (i) did not contain any misrepresentations (as defined in applicable Canadian Securities Laws relating to such document);

- (ii) did not fail to state a material fact required to be stated in order to make the statements contained in such document not misleading in light of the circumstances in which they were made; and
  - (iii) complied in all material respects with the requirements of Applicable Securities Laws.
- (q) Excellon has not filed any confidential material change report or the equivalent thereof under Applicable Securities Laws with any Governmental Authority that currently remains confidential.

#### Financial Statements

- (r) Excellon's audited consolidated financial statements as at and for the fiscal year ended July 31, 2008 (including the notes thereto) and Excellon's unaudited consolidated financial statements as at and for the three months ended October 31, 2008 (collectively, the "**Excellon Financial Statements**") were prepared in accordance with GAAP consistently applied (except (i) as otherwise indicated in such financial statements and the notes thereto or, in the case of the audited consolidated financial statements, in the related report of Excellon's independent auditors, or (ii) in the case of unaudited consolidated interim financial statements, are subject to normal period-end adjustments and may omit notes which are not required by applicable Laws in the unaudited statements) and fairly present, in all material respects, the consolidated financial position, results of operations and cash flows of Excellon and the Excellon Subsidiaries as of the dates thereof and for the periods indicated therein (subject, in the case of any unaudited consolidated interim financial statements, to normal period-end adjustments) and reflect reserves required by GAAP in respect of all material contingent liabilities, if any, of Excellon and the Excellon Subsidiaries on a consolidated basis. There has been no material change in Excellon's accounting policies, except as described in the notes to the Excellon Financial Statements, since July 31, 2008.

#### Material Liabilities

- (s) Other than as fully disclosed in the Excellon Public Record, neither Excellon nor any of its Subsidiaries has any material liabilities or obligations of any nature (whether contingent or absolute, whether accrued or unaccrued, whether liquidated or unliquidated and whether due or to become due, including any liability for Taxes), including guarantees, support obligations or other similar obligations with respect to the obligations of any person, except liabilities and obligations adequately reflected or reserved against in the audited consolidated financial statements of Excellon as at and for the financial year ended July 31, 2008 or in the interim unaudited consolidated financial statements of Excellon as at and for the financial period ended September 30, 2008 or incurred in the ordinary course of business since the end of such periods.

#### Minute Books

- (t) The minute books of Excellon and each of the Excellon Subsidiaries are true, correct and complete in all material respects.

### Excellon Data Room

- (u) All Excellon Data Room Information was accurate in all material respects as at its respective date as stated therein, or, if any Excellon Data Room Information was undated, as of the date of its delivery to Silver Eagle for purposes of the transactions contemplated by this Agreement. Additionally, all information provided to Silver Eagle in relation to Silver Eagle's due diligence requests, including information not provided in the Excellon Data Room Information, is accurate in all material respects as at its respective date as stated therein. To the extent that there has been a material change to any of the Excellon Data Room Information or any other information provided to Excellon since the date disclosed in the data room or provided to Silver Eagle, as the case may be, such information is accurate in all material respects or is no longer relevant or material to Excellon or additional information has been provided in the Excellon data room or to Silver Eagle which supersedes or replaces such information.

### Disclosure Controls and Procedures

- (v) Excellon has devised and maintained a system of disclosure controls and procedures designed to ensure that information required to be disclosed by Excellon under applicable Securities Laws is recorded, processed, summarized and reported within the time periods specified in the applicable Securities Laws. Such disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by Excellon in the reports and other filings under applicable Securities Laws is accumulated and communicated to Excellon's management, including its principal executive and principal financial officers, or Persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

### Internal Control over Financial Reporting

- (w) Excellon maintains internal control over financial reporting. Such internal control over financial reporting is effective in providing reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP and includes policies and procedures that: (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of Excellon and the Excellon Subsidiaries; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of Excellon and the Excellon Subsidiaries are being made only in accordance with authorizations of management and directors of Excellon and the Excellon Subsidiaries; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of Excellon's and the Excellon Subsidiaries' assets that could have a material effect on its financial statements. To the knowledge of Excellon, prior to the date of this Agreement: (A) there are no significant deficiencies in the design or operation of, or material weaknesses in, Excellon's internal controls over financial reporting that are reasonably likely to adversely affect the ability to record, process, summarize and report financial information on or after the Effective Time, and (B) there is no fraud, whether or not material, that involves management or other employees who have a significant role in Excellon's internal control over financial reporting. Since July 31, 2008 and prior to the date of this Agreement, Excellon has received no (x) material complaints from any source regarding

accounting, internal accounting controls or auditing matters or (y) expressions of concern from employees of Excellon regarding questionable accounting or auditing matters.

Absence of Changes

- (x) Except as disclosed in the Excellon Public Record or previously disclosed in writing to Silver Eagle on or prior to the date hereof, since January 1, 2008, Excellon and each of its Subsidiaries has conducted its business only in the ordinary course of business and consistent with past practice and:
  - (i) no material adverse change has occurred with respect to Excellon;
  - (ii) neither Excellon nor any of its Subsidiaries have incurred liabilities or obligations of any nature (whether absolute, accrued, contingent or otherwise) which would, individually or in the aggregate, have an adverse material effect on Excellon;
  - (iii) neither Excellon nor any of its Subsidiaries have experienced any damage, destruction or loss, whether covered by insurance or not, that would have a material adverse effect on Excellon;
  - (iv) neither Excellon nor any of its Subsidiaries have acquired or sold property or assets aggregating more than five percent of Excellon's total consolidated property and assets as at July 31, 2008;
  - (v) neither Excellon nor any of its Subsidiaries have entered into, amended, relinquished, terminated or failed to renew any material agreement, arrangement, commitment, understanding, license, permit, certificate, order, consent, approval or authorization that would, individually or in the aggregate, have a material adverse affect on Excellon;
  - (vi) Excellon has not made any material change in its accounting methods, principles or practices, including the basis upon which its assets and liabilities are recorded on its books or its earnings, profits and losses are ascertained;
  - (vii) neither Excellon nor any of its Subsidiaries have amended their constating documents;
  - (viii) Excellon has not declared, paid or set aside for payment any dividend or distribution of any kind in respect of any of its outstanding securities nor made any repayments of capital;
  - (ix) Excellon has not redeemed, repurchased or otherwise acquired any Excellon Common Shares;
  - (x) no resolution to approve a subdivision, consolidation or reclassification of any of the Excellon Common Shares has been approved by or presented to the Excellon Shareholders; and
  - (xi) neither Excellon nor any of its Subsidiaries have entered into any agreements, arrangements, commitments or understandings to take any action which, if taken

prior to the date of this Agreement, would have made any representation or warranty of Excellon in this Agreement materially untrue or incorrect as of the date when made.

#### Restrictions on Business Activities

- (y) There are no agreements, arrangements, commitments, understandings, judgments, orders, warrants, writs, injunctions or decrees binding upon Excellon or any of its Subsidiaries that has or could have the effect of prohibiting or materially restricting or impairing any business practice of Excellon or any of its Subsidiaries, any acquisition of property or assets by Excellon or any of its Subsidiaries or the conduct of business by Excellon or any of its Subsidiaries as currently conducted, other than any such agreements, arrangements, commitments, understandings, judgments, orders, awards, writs, injunctions or decrees which would not, individually or in the aggregate, have a material adverse effect on Excellon.

#### Compliance

- (z) Excellon and each of its Subsidiaries has complied with and is not in violation of:
  - (i) its constating documents or any resolution of its directors or shareholders; or
  - (ii) any applicable Laws, including Environmental Laws,other than instances of non-compliance or violations that would not, individually or in the aggregate, have a material adverse effect on Excellon.

#### Regulatory Approvals

- (aa) No consent, approval, order or authorization of, or filing with, any Governmental Authority with jurisdiction over Excellon, any of its Subsidiaries or any of their respective properties, assets or businesses is required to be obtained by Excellon or any of its Subsidiaries in connection with the execution and delivery by Excellon of this Agreement, the performance by Excellon of its obligations hereunder or the completion of the Arrangement other than:
  - (i) in connection with or in compliance with Applicable Securities Laws; and
  - (ii) authorizations, consents, approvals, orders or filings, the failure of which to obtain or make would not, individually or in the aggregate, prevent or delay completion of the Arrangement or have a material adverse effect on Excellon.

#### Licenses and Permits

- (bb) Excellon and each of its Subsidiaries owns, possesses or has obtained and is in compliance with all licences, permits (including Environmental Permits), certificates, orders, consents, approvals and other authorizations of or from any Governmental Authority necessary to conduct its business as now conducted, except for such licences, Permits, consents and other authorizations, the failure to own, possess, obtain or be in compliance with which would not, individually or in the aggregate, have a material adverse effect on Excellon.

### Material Contracts

- (cc) Neither Excellon nor any of its Subsidiaries is in breach of, and no event of default (including an event which with notice or lapse of time or both would become a default) relating to Excellon or any of its Subsidiaries has occurred under any of the agreements, arrangements, commitments and understandings that are material to the business and operations of Excellon and its Subsidiaries, taken as a whole (collectively the “**Excellon Contracts**”) and, to the knowledge of Excellon, none of the other parties to any of the Excellon Contracts are in breach of and no event of default (including an event which with notice or lapse of time or both would become a default) relating to such other party has occurred under any of the Excellon Contracts; except for breaches or events of default that have been cured or waived or breaches or events of default that would not, individually or in the aggregate, have a material adverse effect on Excellon.

### Title to Properties and Assets

- (dd) Excellon and its Subsidiaries have good and sufficient right and title to their respective properties and assets (other than a property or an asset as to which Excellon or its Subsidiaries is a lessee, in which case it has a valid lease interest) and to its mineral interests and rights (including any claims, concessions, exploration licences, exploitation licences, prospecting permits, royalty interests, mining leases and mining rights) necessary to permit the operation of its business as presently conducted, except for such defect in title that, individually or in the aggregate, would not have a material adverse effect on Excellon.
- (ee) Neither Excellon nor any of its Subsidiaries has received notice of any default in its title to any of its properties, assets or mineral rights which default is continuing and, individually or in the aggregate, would have a material adverse affect on Excellon or subject the title of Excellon or any of its Subsidiaries to any of their properties or assets to cancellation or termination.

### Mineral Reserves

- (ff) The measured, indicated and inferred resources and proven and probable reserves for the various mineral properties in which Excellon or any of the Excellon Subsidiaries holds an interest, as set forth in Excellon’s annual information form for its financial year ended July 31, 2008, were prepared in accordance with sound mining, engineering, geoscience and other applicable industry standards and practices, and in accordance with the requirements of National Instrument 43-101 *Standards of Disclosure for Mineral Projects* and were, at such date, true and correct in all material respects. There has been no material reduction in the aggregate amount of estimated mineral reserves or estimated mineral resources of Excellon or the Excellon Subsidiaries from the amounts disclosed in the Excellon Public Record other than as a result of mining activities undertaken in the ordinary course.

### Environmental Matters

- (gg) Except for matters that would not, individually or in the aggregate, have a material adverse effect on Excellon:



- (i) each of Excellon and its Subsidiaries is in possession of all Environmental Permits; and
  - (ii) Excellon and its Subsidiaries (and their respective businesses and operations) have been and are now in material compliance with all Environmental Permits and Environmental Laws.
- (hh) Neither Excellon nor any of its Subsidiaries is subject to:
- (i) any Environmental Permits or Environmental Laws that require or may require:
    - (A) any material work, repairs, construction, change in business practices or operations; or
    - (B) any expenditures, including capital expenditures, for facility upgrades, Environmental investigation and remediation expenditures, or any other similar expenditures;
  - (ii) any written demand, written notice of default, summons, notice of judgment or commencement of proceedings with respect to any breach, liability or remedial action (or any alleged breach, liability or remedial action) arising under Environmental Laws;
  - (iii) any obligation to remedy, pay compensation, or make any payment in the nature of a fine in relation to any breach of Environmental Permits or Environmental Laws;
  - (iv) or aware of any pending, material renewal, modification, revocation, reissuance, alteration, transfer or amendment of any Environmental Permit; or
  - (v) or aware of any pending, review by, or approval of, any Governmental Authority required, in relation to Environmental Permit or Environmental Laws, in connection with the execution and delivery of this Agreement, the completion of the Arrangement or the continuation of the business or operations of Excellon or any of its Subsidiaries following completion of the Arrangement;

that would, individually or in the aggregate, have a material adverse effect on Excellon.

#### Litigation

- (ii) Except as has been disclosed in the Excellon Public Record, there is no claim, suit, action, arbitration, review, proceeding or investigation pending, or to the knowledge of Excellon, threatened by or against Excellon or any of its Subsidiaries or affecting any of their respective properties, assets or businesses before or by any Governmental Authority that if adversely determined, individually or in the aggregate, would have a material adverse effect on Excellon or prevent or delay consummation of the Arrangement or the other transactions contemplated by this Agreement, nor to the knowledge of Excellon is there any basis for any such claim, suit, action, arbitration, review, proceeding or investigation.

- (jj) Neither Excellon, nor any of its Subsidiaries, nor any of their respective assets, properties or businesses, is subject to an outstanding judgment, order, award, writ, injunction or decree which would have a material adverse effect on Excellon or prevent or delay consummation of the Arrangement or the other transactions contemplated by this Agreement.

#### Insurance

- (kk) Excellon and its Subsidiaries have policies of insurance currently in force naming one or more of Excellon or its Subsidiaries as an insured that adequately cover all risks reasonably and prudently foreseeable in the operation and conduct of the business of Excellon and its Subsidiaries, having regard to the nature of the relevant risks and the relative cost of obtaining insurance. All such policies of insurance will remain in force and effect from the date hereof to and including the Effective Date and will not be cancelled or otherwise terminated as a result of the Arrangement or the other transactions contemplated by this Agreement other than such cancellations as would not, individually or in the aggregate, have a material adverse affect on Excellon.

#### Tax Matters

- (ll) Except as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect with respect to Excellon:
  - (i) Excellon and each Excellon Subsidiary has duly and in a timely manner made or prepared all Tax Returns required to be made or prepared by it, and duly and in a timely manner filed all Tax Returns required to be filed by it with the appropriate Governmental Authority, such Tax Returns are complete and correct in all material respects and Excellon and each Excellon Subsidiary has paid all Taxes, including instalments on account of Taxes for the current year required by applicable Law, which are due and payable by it whether or not assessed by the appropriate Governmental Entity and Excellon has provided adequate accruals in accordance with GAAP in the most recently published financial statements of Excellon for any Taxes for the period covered by such financial statements that have not been paid whether or not shown as being due on any Tax Returns. Since such publication date, no material liability in respect of Taxes not reflected in such statements or otherwise provided for has been assessed, proposed to be assessed, incurred or accrued, other than in the ordinary course of business;
  - (ii) Excellon and each Excellon Subsidiary has duly and timely withheld all Taxes and other amounts required by Law to be withheld by it (including Taxes and other amounts required to be withheld by it in respect of any amount paid or credited or deemed to be paid or credited by it to or for the benefit or any person) and has duly and timely remitted to the appropriate Governmental Authority such Taxes or other amounts required by applicable Law to be remitted by it;
  - (iii) Excellon and each Excellon Subsidiary has duly and timely collected all amounts on account of any sales or transfer Taxes, including goods and services, harmonized sales and provincial and territorial taxes, required by Law to be collected by it and has duly and timely remitted to the appropriate Governmental Authority such amounts required by Law to be remitted to it;

- (iv) other than actions in the ordinary course, there are no actions, suits, proceedings, investigations or claims threatened against Excellon or any Excellon Subsidiary in respect of Taxes, or any matters under discussion with any Governmental Authority relating to Taxes asserted by any such authority;
- (v) neither Excellon nor any Excellon Subsidiary has requested, offered to enter into or entered into any agreement or other arrangement, or executed any waiver, providing for any extension of time within which: (A) to file any Tax Return covering any Taxes for which Excellon or any Excellon Subsidiary is or may be liable; (B) to file any elections, designations or similar filings relating to Taxes for which Excellon or any Excellon Subsidiary is or may be liable; (C) Excellon or any Excellon Subsidiary is required to pay or remit any Taxes or amounts on account of Taxes; or (D) any Governmental Authority may assess or collect Taxes for which Excellon or any Excellon Subsidiary is or may be liable;
- (vi) other than ordinary course audits and claims, there are no proceedings, investigations audits or claims in progress or, to the knowledge of Excellon, pending or threatened against Excellon nor any Excellon Subsidiary in respect of Taxes and there are no matters under discussion, audit or appeal with any Governmental Authority relating to Taxes;
- (vii) neither Excellon nor any Excellon Subsidiary has acquired property from a non-arm's length person, within the meaning of the Tax Act: (A) for consideration the value of which is less than the fair market value of the property; or (B) as a contribution of capital for which no shares were issued by the acquirer of the property;
- (viii) Excellon has made available to Silver Eagle copies of: (A) all Tax Returns relating to the Taxes of Excellon or any Excellon Subsidiary that to the knowledge of Excellon have been filed in the last three (3) years; and (B) all material written communications to or from any Governmental Authority relating to the Taxes of Excellon or any Excellon Subsidiary that to the knowledge of Excellon has been received or sent in the last three (3) years;
- (ix) for the purposes of the Tax Act: (A) Excellon is resident in Canada; and (B) each of the Excellon Subsidiaries is not resident in Canada; and
- (x) there are no Encumbrances for Taxes upon any properties or assets of Excellon or of any of the Excellon Subsidiaries (other than Liens relating to Taxes not yet due and payable and for which adequate reserves have been recorded on the consolidated balance sheet included in Excellon's audited consolidated financial statements as at and for the fiscal year ended July 31, 2008).

#### Fees and Commissions

- (mm) No person is entitled to any broker's or finder's fee or other fee, commission or compensation payable by Excellon or any of its Subsidiaries in connection with the Arrangement or any of the other transactions contemplated by this Agreement, except for:
  - (i) fees payable to Excellon's legal and accounting advisors; and

- (ii) fees payable to Governmental Authorities in the ordinary course in respect of the Arrangement.

#### Absence of Cease Trade Orders

- (nn) No order ceasing or suspending trading of the Excellon Common Shares or any other securities of Excellon has been issued by any regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or, to the knowledge of Excellon, are pending, contemplated or threatened under and Securities Laws or by any other regulatory authority.

#### Related Party Transactions

- (oo) Except as contemplated hereby or as disclosed in Schedule 3.2(oo) of the Excellon Disclosure Letter, there are no contracts or other transactions currently in place between Excellon or any Excellon Subsidiary, on the one hand, and (i) to the knowledge of Excellon, any officer or director of Excellon or any Excellon Subsidiary; (ii) to the knowledge of Excellon, any holder of record or, to the knowledge of Excellon, beneficial owner of 10% or more of the Excellon Common Shares; and (iii) to the knowledge of Excellon, any affiliate or associate (including any spouse, parent, sibling or descendant of such person and any trust for the benefit of any of the foregoing persons) of any such, officer, director, holder of record or beneficial owner, on the other hand.

#### Expropriation

- (pp) Since July 31, 2008, no material part of the property or assets of Excellon or any Excellon Subsidiary has been taken, condemned or expropriated by any Governmental Authority nor has any written notice, acknowledgement or proceeding in respect thereof been received by Excellon or any Excellon Subsidiary.

#### Rights of Other Persons

- (qq) No person has any right of first refusal or option to purchase or any other right of participation in any of the material properties or assets owned by Excellon, any Excellon Subsidiary or any part thereof.

#### Circular

- (rr) The information that will be in the Circular with respect to Excellon and its Subsidiaries will be true and complete in all material respects, will not contain any misrepresentation (as defined in Canadian Securities Laws), will not contain an untrue statement of a material fact, will not omit to state any material fact relating thereto required to be stated or which is necessary in order to make the statements made therein not misleading in light of the circumstances under which they were made, and all facial statements of Excellon contained therein or incorporated therein by reference will present fairly its financial position as of the dates provided therein and the results of its operations and changes in financial position for the periods then ended and will be prepared in accordance with GAAP consistently applied.

### **3.3 Survival of Representations and Warranties**

The representations and warranties of each of Silver Eagle and Excellon contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

## **ARTICLE 4 COVENANTS**

### **4.1 Covenants of Silver Eagle Regarding the Conduct of Business**

Silver Eagle covenants and agrees that from the date of this Agreement until the Effective Time or the earlier termination of this Agreement pursuant to Section 10.1, except as expressly contemplated or permitted by this Agreement, required by applicable Law or Governmental Authority or consented to by Excellon in writing, Silver Eagle will, and will cause each Silver Eagle Subsidiary to:

- (a) not, and will not permit any Silver Eagle Subsidiary, directly or indirectly, to do or permit any of the following to occur:
  - (i) issue, sell, pledge, hypothecate, lease, dispose of, Encumber or agree to issue, sell, pledge, lease, dispose of or Encumber any shares of, or any options, warrants, calls, conversion privileges or rights of any kind to acquire any shares of, Silver Eagle, other than pursuant to the exercise of outstanding Silver Eagle Options; or
  - (ii) grant any stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments based upon the share price, book value, income or any other attribute of Silver Eagle or any of its businesses or operations;
  - (iii) amend or propose to amend its articles, by-laws or other constating documents;
  - (iv) subdivide, combine or reclassify any of its outstanding securities, or declare, set aside or pay any dividend or other distribution payable in cash, securities, property, assets or otherwise with respect to its securities;
  - (v) redeem, purchase or offer to purchase any of its securities, unless otherwise required by the terms of such securities;
  - (vi) reorganize, amalgamate, enter into an arrangement with or merge, or agree with any other person to reorganize, amalgamate, enter into an arrangement with or merge;
  - (vii) acquire or agree to acquire, any securities or business of any person or acquire or agree to acquire any properties or assets which are, individually or in the aggregate, material to Silver Eagle;
  - (viii) satisfy or settle any claims, liabilities or legal actions which are, individually or in the aggregate, material to Silver Eagle, except such as have been reserved against in Silver Eagle's financial statements previously filed in the Silver Eagle Public Record;

- (ix) relinquish any contractual rights, which are, individually or in the aggregate, material to Silver Eagle;
  - (x) enter into any interest rate, currency, metal or other commodity swaps, hedges or other similar financial or derivative instruments;
  - (xi) except pursuant to the bridge loan agreement dated February 19, 2009 between the Parties, incur or commit to provide guarantees, incur any indebtedness for borrowed money or issue any debt securities;
  - (xii) except pursuant to existing employment, termination or compensation arrangements or policies or Benefit Plans:
    - (A) enter into, or modify any employment, severance, collective bargaining or similar agreements, policies or arrangements with; or
    - (B) grant any bonuses, salary increases, stock options, pension or supplemental pension benefits, profit sharing, retirement allowances, deferred compensation, incentive compensation, severance or termination pay to, or make any loan to,  
  
any employees, officers or directors of Silver Eagle;
  - (xiii) incur or commit to make any capital expenditures or capital related spending commitments;
  - (xiv) settle any claim brought by any present, former or purported holder of any of its securities in connection with the Arrangement or the other transactions contemplated by this Agreement;
  - (xv) except as required by applicable Law, modify in any material respect any Silver Eagle Contract or enter into any new contract, agreement, commitment or arrangement which new contract, or series of related new contracts, would be material to, or which would have a material adverse effect on, Silver Eagle;
  - (xvi) make any changes to its existing accounting practices, except as required by applicable Laws or a change in GAAP, or make any material tax election inconsistent with past practice;
  - (xvii) enter into or modify any agreement with a broker or financial advisor relating to the payment of fees or expenses; or
  - (xviii) any action that would, or may reasonably be expected to, be inconsistent with, interfere with or significantly impede the completion of the Arrangement or the other transactions contemplated by this Agreement or that would render, or that reasonably may be expected to render, any representation or warranty of Silver Eagle to be untrue in any material respect at any time prior to the Effective Time as if made at that time;
- (b) continue the temporary suspension of all of its mining and exploration activities;

- (c) cease the dewatering program at the Miguel Auza mine;
- (d) use its reasonable commercial efforts to cause its insurance (or re-insurance) policies not to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies underwritten by insurance and re-insurance companies of nationally recognized standing providing coverage equal to or greater than the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect;
- (e) use its reasonable commercial efforts to preserve intact its business organization and goodwill, to keep available the services of its officers and employees as a group up to the Effective Date and to maintain satisfactory relationships with contractors, suppliers, agents and others having business relationships with Silver Eagle;
- (f) promptly inform Excellon of:
  - (i) any material adverse change, or any change which could reasonably be expected to become a material adverse change, in respect of Silver Eagle;
  - (ii) any event occurring prior to the Effective Time that, to the knowledge of Silver Eagle, would render any representation or warranty of Silver Eagle herein untrue in any material respect if made on and as of the Effective Date; or
  - (iii) any breach by Silver Eagle of its obligations under this Agreement;
- (g) use all commercially reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to Silver Eagle's obligations set forth in Article 5 to the extent that satisfaction of such conditions precedent is within Silver Eagle's control and to take, or cause to be taken, all other action and to do, or cause to be done, all other things necessary, proper or advisable under all applicable Laws to complete the Arrangement, including Silver Eagle's commercially reasonable efforts to:
  - (i) obtain all necessary waivers, consents and approvals required to be obtained by it from other parties to the Silver Eagle Debt Agreements and other agreements, arrangements, commitments or understandings to which Silver Eagle is a party or by which Silver Eagle or any of its properties or assets is bound;
  - (ii) obtain all necessary consents, approvals and authorizations as are required to be obtained by it under any applicable Laws;
  - (iii) effect all necessary registrations and filings and submissions of information requested by Governmental Authorities required to be effected by it in connection with the Arrangement and participate and appear in any proceedings of any Party before Governmental Authorities;
  - (iv) oppose, lift or rescind any injunction or restraining order or other order or action seeking to stop, or otherwise adversely affecting the ability of the Parties to consummate the Arrangement or the other transactions contemplated hereby;
  - (v) fulfil all conditions and satisfy all provisions of this Agreement and the Arrangement; and

- (vi) cooperate with Excellon in connection with the performance of its obligations hereunder;
- (h) in all material respects, conduct itself so as to keep Excellon fully informed as to the material decisions or actions required or required to be made with respect to the operation of its business;
- (i) make or cooperate as necessary in the making of all other necessary filings and applications under all applicable Laws required in connection with the Arrangement and the transactions contemplated herein and take all reasonable action necessary to be in compliance with such applicable Laws;
- (j) use its reasonable commercial efforts to conduct its affairs so that all of its representations and warranties contained herein will be true and correct in all material respects on and as of the Effective Date as if made thereon;
- (k) provide Excellon and Excellon's Representatives with such information concerning Silver Eagle and its properties, assets and businesses as Excellon may reasonably request and such access to the mineral properties, books and records of Silver Eagle (including without limitation, any technical reviews of such mineral properties prepared by Silver Eagle or any of its consultants, service providers or financiers) as Excellon may reasonably require, to facilitate the transition of management of such mineral properties, assets and businesses following the Closing; and
- (l) advise Excellon in advance of any significant decision or commitment taken or entered into by Silver Eagle that is not in the ordinary course of business and secure the permission of Excellon, such permission not to be unreasonably withheld.

#### **4.2 Covenants of Silver Eagle Relating to the Arrangement**

Silver Eagle covenants and agrees that until the Effective Time or the earlier termination of this Agreement pursuant to Section 10.1, except as expressly contemplated or permitted in this Agreement or consented to by Excellon in writing, it will, and will cause its Representatives to:

- (a) in a timely and expeditious manner file, proceed with and diligently prosecute an application to the Court for the Interim Order;
- (b) in a timely and expeditious manner:
  - (i) carry out the terms of the Interim Order;
  - (ii) prepare, in cooperation with Excellon, and file the Circular with respect to the Silver Eagle Meeting with all Governmental Authorities required by applicable Law and mail the Circular to Silver Eagle Shareholders and such other persons as required by the Interim Order and in accordance with applicable Laws, provided that the Circular and other documentation required in connection with the Arrangement shall not be filed or delivered, except with Excellon's prior review and comment;
  - (iii) ensure that the Circular complies in all material respects with all applicable Laws and:



- (A) is true and complete in all material respects;
- (B) does not contain any misrepresentation (as defined in Canadian Securities Laws);
- (C) does not contain an untrue statement of a material fact; and
- (D) does not omit to state any material fact required to be stated or which is necessary in order to make the statements made therein not misleading in light of the circumstances under which they were made,

with respect to the Arrangement, Silver Eagle or any of its properties, assets or business;

- (iv) ensure that the financial statements of Silver Eagle contained in the Circular or incorporated therein by reference will present fairly Silver Eagle's financial position as of the dates provided therein and the results of its operations and changes in financial position for the periods then ended and will be prepared in accordance with GAAP consistently applied;
  - (v) solicit proxies for the approval of the Arrangement Resolution in accordance with applicable Law, the articles and by-laws of Silver Eagle, the Circular and the Interim Order;
  - (vi) convene the Silver Eagle Meeting in accordance with the Interim Order, the articles and by-laws of Silver Eagle and as otherwise required by applicable Laws;
  - (vii) provide notice to Excellon of the Silver Eagle Meeting and allow Excellon's Representatives to attend the Silver Eagle Meeting, unless such attendance is prohibited by the Interim Order; and
  - (viii) conduct the Silver Eagle Meeting in accordance with the Interim Order, the articles and by-laws of Silver Eagle, and as otherwise required by applicable Laws;
- (c) in a timely and expeditious manner, prepare, in cooperation with Excellon, and file any mutually agreed (or otherwise required by applicable Laws) amendments or supplements to the Circular together with any other documents required by applicable Law with all Governmental Authorities required by applicable Law and deliver the amended or supplemented Circular to Silver Eagle Shareholders and such other persons as required by the Interim Order and in accordance with applicable Laws;
  - (d) subject to the approval of the Arrangement Resolution at the Meeting in accordance with the provisions of the Interim Order, forthwith proceed with and diligently prosecute an application for the Final Order;
  - (e) in a timely and expeditious manner carry out the terms of the Interim Order and the Final Order and, subject to the receipt of the Final Order, the satisfaction of the conditions precedent in favour of Silver Eagle herein and the receipt of the written confirmation from Excellon that the conditions precedent in favour of Excellon herein have been

satisfied or waived, file the Articles of Amendment and such other supporting notices and documents with the Director as are necessary in order for the Arrangement to become effective;

- (f) except for proxies and other non-substantive communications, furnish promptly to Excellon a copy of each notice, report, schedule or other document or communication delivered, filed or received by Silver Eagle in connection with the Arrangement, the Interim Order, the Silver Eagle Meeting or any other meeting of Silver Eagle securityholders or class of securityholders which all such holders, as the case may be, are entitled to attend, any filings under applicable Laws and any dealings with Governmental Authorities in connection with, or in any way affecting, the Arrangement or the other transactions contemplated herein; and
- (g) assist and cooperate in the preparation and filing with all applicable securities commissions or similar securities regulatory authorities in Canada and the United States of all necessary applications to seek exemptions, if required, from the prospectus, registration and other requirements of the applicable securities laws of the provinces of Canada and the United States for the issue by Excellon of Excellon Common Shares, pursuant to the Arrangement and the resale of such securities (other than by “control persons” of Excellon, as that term or its equivalent is used in applicable Canadian Securities Laws, or “affiliates” of Excellon as that term is used in the U.S. Securities Laws).

#### **4.3 Covenants of Excellon Regarding the Conduct of Business**

Excellon covenants and agrees that from the date of this Agreement until the Effective Time or the earlier termination of this Agreement pursuant to Section 10.1, except as expressly contemplated or permitted by this Agreement, required by applicable Law or Governmental Authority or consented to by Silver Eagle in writing, Excellon will, and will cause each Excellon Subsidiary to:

- (a) not, directly or indirectly, take or permit any action that would, or that reasonably may be expected to, be inconsistent with, interfere with or significantly impede the completion of the Arrangement or the transactions contemplated under this Agreement, or would render, or that reasonably may be expected to render, any representation or warranty of Excellon to be untrue in any material respect at any time prior to the Effective Time as if made at that time;
- (b) not issue any Excellon Common Shares or financial instruments convertible or exercisable into Excellon Common Shares other than pursuant to the exercise of outstanding Excellon Options or in connection with one or more financings by Excellon to raise up to an aggregate of \$15 million;
- (c) promptly inform Silver Eagle of:
  - (i) any material adverse change, or any change which could reasonably be expected to become a material adverse change, in respect of Excellon;
  - (ii) any event occurring prior to the Effective Time that, to the knowledge of Excellon, would render any representation or warranty of Excellon untrue in any material respect if made on and as of the Effective Date; or

- (iii) any breach by Excellon of its obligations under this Agreement;
- (d) use all commercially reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to Excellon's obligations set forth in Article 5 to the extent that satisfaction of such conditions precedent is within its control and to take, or cause to be taken, all other action and to do, or cause to be done, all other things necessary, proper or advisable under all applicable Laws to complete the Arrangement, including its commercially reasonable efforts to:
  - (i) obtain all necessary waivers, consents and approvals required to be obtained by it from other parties to Excellon Debt Agreements and other agreements, arrangements, commitments, or understandings to which Excellon or any of its Subsidiaries is a party or by which Excellon, any of its Subsidiaries or any of their respective properties or assets is bound;
  - (ii) obtain all necessary consents, approvals and authorizations as are required to be obtained by it under any applicable Laws,
  - (iii) effect all necessary registrations and filings and submissions of information requested by Governmental Authorities required to be effected by it in connection with the Arrangement and participate and appear in any proceedings of any Party before Governmental Authorities;
  - (iv) oppose, lift or rescind any injunction or restraining order or other order or action seeking to stop, or otherwise adversely affecting the ability of the Parties to consummate the Arrangement or the other transactions contemplated hereby;
  - (v) fulfil all conditions and satisfy all provisions of this Agreement and the Arrangement; and
  - (vi) cooperate with Silver Eagle in connection with the performance of its obligations hereunder;
- (e) make or cooperate as necessary in the making of all other necessary filings and applications under all applicable Laws required in connection with the Arrangement and the other transactions contemplated herein and take all reasonable action necessary to be in compliance with such applicable Laws; and
- (f) use its reasonable commercial efforts to conduct its affairs so that all of its representations and warranties contained herein will be true and correct in all material respects on and as of the Effective Date as if made thereon.

#### **4.4 Covenants of Excellon Relating to the Arrangement**

Excellon covenants and agrees that until the Effective Time or the earlier termination of this Agreement pursuant to Section 10.1, except as expressly contemplated or permitted in this Agreement or consented to by Silver Eagle in writing, it will, and will cause its Representatives to:

- (a) in a timely and expeditious manner, cooperate with Silver Eagle in connection with the filing and prosecution of an application to the Court for the Interim Order;

- (b) in a timely and expeditious manner:
  - (i) cooperate with Silver Eagle in connection with Silver Eagle's efforts to carry out the terms of the Interim Order;
  - (ii) assist Silver Eagle in the preparation of the Circular; and
  - (iii) ensure that the Circular, as it relates to Excellon, its Subsidiaries and any of their respective properties, assets or businesses, complies in all material respects with all applicable Laws and:
    - (A) is true and complete in all material respects;
    - (B) does not contain any misrepresentation (as defined in Canadian Securities Laws);
    - (C) does not contain an untrue statement of a material fact; and
    - (D) does not omit to state any material fact required to be stated or which is necessary in order to make the statements made therein not misleading in light of the circumstances under which they were made;
- (c) in a timely and expeditious manner, cooperate with Silver Eagle in connection with the filing of any mutually agreed (or otherwise required by applicable Laws) amendments or supplements to the Circular together with any other documents required by applicable Law with all Governmental Authorities required by applicable Law;
- (d) subject to the approval of the Arrangement Resolution at the Silver Eagle Meeting in accordance with the provisions of the Interim Order, cooperate with Silver Eagle in connection with Silver Eagle's efforts to prosecute an application for the Final Order;
- (e) cooperate with Silver Eagle in connection with Silver Eagle's efforts to carry out the terms of the Interim Order and the Final Order and, subject to the receipt of the Final Order, the satisfaction of the conditions precedent in favour of Excellon herein and the receipt of the written confirmation of Silver Eagle that the conditions precedent herein in favour of Silver Eagle have been satisfied or waived, cooperate with Silver Eagle in connection with Silver Eagle's efforts to file the Articles of Amendment and such other supporting notices and documents with the Director as are necessary in order for the Arrangement to become effective;
- (f) except for non-substantive communications, furnish promptly to Silver Eagle a copy of each notice, report, schedule or other document or communication delivered, filed or received by Excellon in connection with any dealings with Governmental Authorities in connection with, or in any way affecting, the Arrangement or the other transactions contemplated herein;
- (g) assist and cooperate in the preparation and filing with all applicable securities commissions or similar securities regulatory authorities of Canada and the United States of all necessary applications to seek exemptions, if required, from the prospectus, registration and other requirements of the Applicable Securities Laws of the provinces of Canada and the United States for the issue by Excellon of Excellon Common Shares,

pursuant to the Arrangement and the resale of such securities (other than by “control persons” of Excellon, as that term or its equivalent is used in applicable Canadian Securities Laws, or “affiliates” of Excellon as that term is used in the U.S. Securities Laws);

- (h) at or prior to the Effective Time, allot and reserve for issuance a sufficient number of Excellon Common Shares to meet the obligations of Excellon under the Arrangement;
- (i) at or prior to the Effective Time, create and grant a sufficient number of Replacement Options to meet the obligations of Excellon under the Arrangement; and
- (j) take all necessary actions to have the Excellon Common Shares issued in connection with the Arrangement listed and posted for trading on the TSX.

#### **4.5 Pre-Acquisition Reorganization**

- (a) Silver Eagle shall effect such reorganization of its business, operations, subsidiaries and assets or such other transactions (each, a “**Pre-Acquisition Reorganization**”) as Excellon may reasonably request prior to the Effective Date, and the Plan of Arrangement, if required, shall be modified accordingly; provided, however, that Silver Eagle need not effect a Pre-Acquisition Reorganization which in the opinion of Silver Eagle, acting reasonably: (i) would require Silver Eagle to obtain the prior approval of the Silver Eagle Shareholders in respect of such Pre-Acquisition Reorganization other than at the Silver Eagle Meeting; or (ii) would impede or materially delay the consummation of the Arrangement. Without limiting the foregoing and other than as set forth in clause (i) above, Silver Eagle shall use its best efforts to obtain all necessary consents, approvals or waivers from any persons to effect each Pre-Acquisition Reorganization, and Silver Eagle shall cooperate with Excellon in structuring, planning and implementing any such Pre-Acquisition Reorganization. Excellon shall provide written notice to Silver Eagle of any proposed Pre-Acquisition Reorganization at least ten (10) Business Days prior to the date of the Silver Eagle Meeting. In addition:
  - (i) Excellon shall indemnify and save harmless the officers, directors, employees, agents, advisors and representatives of Silver Eagle and the Silver Eagle Subsidiaries from and against any and all liabilities, Taxes, losses, damages, claims, costs, expenses, interest awards, judgments and penalties suffered or incurred by any of them in connection with or as a result of any Pre-Acquisition Reorganization;
  - (ii) Excellon shall pay the implementation costs of the Pre-Acquisition Reorganization and any direct or indirect costs and liabilities thereof, including employment costs, Taxes and liabilities as well as any costs, Taxes and liabilities that may be incurred to unwind any such Pre-Acquisition Reorganization (including actual out-of-pocket costs and expenses for Filing fees and external counsel);
  - (iii) any Pre-Acquisition Reorganization or required cooperation of Silver Eagle in structuring, planning and implementing any Pre-Acquisition Reorganization shall not become effective unless Excellon shall have confirmed in writing the satisfaction or waiver of all conditions in its favour in Section 5.1 and Section 5.2 and shall have confirmed in writing that it is prepared to promptly without

condition (other than the satisfaction of the condition contemplated by Section 5.2(a)) to proceed to effect the Arrangement;

- (iv) any Pre-Acquisition Reorganization or required cooperation of Silver Eagle in structuring, planning and implementing any Pre-Acquisition Reorganization shall not unreasonably interfere in material operations prior to the Effective Time of Silver Eagle or any Silver Eagle Subsidiary;
  - (v) unless the Parties otherwise agree, any Pre-Acquisition Reorganization shall not require any filings with, notifications to or approvals of any Governmental Authority or third party (other than such Tax rulings, and filing such Tax elections or notifications and pre-filings or pre-clearances with corporations branches or similar Governmental Authorities, as are necessary or advisable in the circumstances);
  - (vi) any Pre-Acquisition Reorganization shall not require Silver Eagle or any Silver Eagle Subsidiary to contravene any applicable Laws, their respective organizational documents or any Contract;
  - (vii) Silver Eagle and the Silver Eagle Subsidiaries shall not be obligated to take any action that could result in any Taxes being imposed on, or any adverse Tax or other consequences to, any securityholder of Silver Eagle incrementally greater than the Taxes or other consequences to such party in connection with the consummation of the Arrangement in the absence of any Pre-Acquisition Reorganization; and
  - (viii) such cooperation does not require the directors, officers, employees or agents of Silver Eagle or the Silver Eagle Subsidiaries to take any action in any capacity other than as a director, officer or employee.
- (b) Excellon acknowledges and agrees that the planning for and implementation of any Pre-Acquisition Reorganization shall not be considered a breach of any covenant under this Agreement and shall not be considered in determining whether a representation or warranty of Silver Eagle hereunder has been breached. Excellon and Silver Eagle shall work cooperatively and use reasonable commercial efforts to prepare prior to the Effective Time all documentation necessary and do such other acts and things as are necessary to give effect to such Pre-Acquisition Reorganization. For greater certainty, Silver Eagle shall not be liable for the failure of Excellon to benefit from any anticipated tax efficiency as a result of a Pre-Acquisition Reorganization.

## **ARTICLE 5 CONDITIONS**

### **5.1 Mutual Conditions Precedent**

The respective obligations of the Parties to complete the transactions contemplated herein are subject to the fulfilment of the following conditions at or prior to the Effective Time, each of which may be waived with the written consent of the Parties:

- (a) the Court shall have granted the Interim Order in form and substance satisfactory to Excellon and Silver Eagle, acting reasonably, and the Interim Order shall not have been

set aside or modified in a manner unacceptable to Excellon or Silver Eagle, each acting reasonably, on appeal or otherwise;

- (b) the Silver Eagle Shareholders shall have approved the Arrangement Resolution at the Silver Eagle Meeting in accordance with the Interim Order, the articles and by-laws of Silver Eagle and any applicable Laws, and the Arrangement Resolution shall not have been rescinded or amended in a manner unacceptable to Excellon or Silver Eagle;
- (c) the Court shall have granted the Final Order in form and substance satisfactory to both Excellon and Silver Eagle, acting reasonably, and will not have been modified or set aside in a manner that is unacceptable to Excellon or Silver Eagle, acting reasonably, on appeal or otherwise;
- (d) the Articles of Arrangement, in form and substance satisfactory to Excellon and Silver Eagle, acting reasonably will have been accepted by the Director for filing;
- (e) there shall not exist any prohibition at Law, including a cease trade order, injunction or other prohibition or order of Law or under any applicable legislation, against Excellon or Silver Eagle which shall prevent the consummation of the Arrangement;
- (f) no applicable Law, is in force, and no action has been taken under any applicable Laws or by any Governmental Authority, that:
  - (i) makes it illegal or otherwise directly or indirectly restrains, enjoins or prohibits the Arrangement or any other transactions contemplated herein; or
  - (ii) results in a judgement or assessment of damages, directly or indirectly, relating to the Arrangement or any other transactions contemplated herein which would have a material adverse effect on either Excellon or Silver Eagle;
- (g) all consents, waivers, permits, orders and approvals of any Governmental Authority or other person, and the expiry or termination of any waiting periods, in connection with, or required to permit, the consummation of the Arrangement, the failure of which to obtain or the non-expiry or non-termination of which would have material adverse effect on either Excellon or Silver Eagle, or would prevent or delay the completion of the Arrangement, have been obtained or received on terms satisfactory to Excellon and Silver Eagle, acting reasonably, and evidence of the same satisfactory to Excellon and Silver Eagle, acting reasonably, has been delivered to each Party;
- (h) the TSX has conditionally approved the listing thereon of the Excellon Common Shares to be issued to Silver Eagle Shareholders pursuant to the Arrangement and the Excellon Common Shares issuable pursuant to the Replacement Options and the grant of the Replacement Options to the Silver Eagle Optionholders, subject only to such conditions, including the filing of documentation, as are acceptable to Excellon and Silver Eagle, acting reasonably;
- (i) the distribution of the Excellon Common Shares in Canada pursuant to the Arrangement is exempt from registration and prospectus requirements of applicable Canadian Securities Laws and, except with respect to persons deemed to be “control persons” or the equivalent under applicable Canadian Securities Laws, the Excellon Common Shares

to be distributed in Canada pursuant to the Arrangement are not subject to any resale restrictions under applicable Canadian Securities Laws;

- (j) the distribution of the Excellon Common Shares in the United States pursuant to the Arrangement is exempt from registration requirements under the U.S. Securities Act and, except with respect to persons deemed “affiliates” of Excellon under the U.S. Securities Act, the Excellon Common Shares to be distributed in the United States pursuant to the Arrangement are not subject to resale restrictions in the United States under the U.S. Securities Act or the U.S. Securities Exchange Act ; and
- (k) this Agreement will not have been terminated pursuant to Article 10,

The conditions precedent in this Section 5.1 are for the mutual benefit of the Parties and may be waived, in whole or in part, at any time if waived by both Parties, such waiver being without prejudice to any other rights that each Party may have. If any of such conditions precedent are not complied with or waived as aforesaid on or before the date required for the performance thereof, either of the Parties may, subject to Section 5.4, rescind and terminate this Agreement by written notice to the other Party and will have no other right or remedy, except as set forth in Article 6, if applicable, or Article 10.

## **5.2 Conditions to Obligations of Excellon**

The obligations of Excellon to complete the transactions contemplated herein are subject to the fulfilment of the following conditions at or prior to the Effective Time:

- (a) the representations and warranties made herein by Silver Eagle will be true and correct as of the Effective Date as if made on and as of such date (except to the extent such representations and warranties speak as of an earlier date, in which event they will be true as of such earlier date, or except as affected by transactions contemplated or permitted by this Agreement, or except for any failures or breaches of representations and warranties which, individually or in the aggregate, would not have a material adverse effect on Silver Eagle or prevent or delay the completion of the Arrangement or the other transactions contemplated hereby), and Silver Eagle will have provided to Excellon a certificate of the President and Chief Financial Officer of Silver Eagle, certifying such accuracy on the Effective Date;
- (b) Silver Eagle will have complied with its covenants herein (except to the extent that the failure to comply with such covenants has not had or would not have, individually or in the aggregate, a material adverse effect on Silver Eagle or prevent or delay the completion of the Arrangement or the other transactions contemplated herein), and Silver Eagle will have provided to Excellon, a certificate of the President and Chief Financial Officer of Silver Eagle, certifying that Silver Eagle has complied with its covenants herein;
- (c) from the date hereof up to and including the Effective Time, there will have been no material adverse change in relation to Silver Eagle;
- (d) the board of directors of Silver Eagle will have made and will not have modified or amended, in any material respect, prior to the Silver Eagle Meeting, their unanimous affirmative recommendation that the Silver Eagle Shareholders and approve the Arrangement Resolution;



- (e) Excellon will have received resignations and releases in favour of Silver Eagle from such directors and officers of Silver Eagle as Excellon may be direct in writing, such resignations to be effective as of the Effective Time and in form and substance satisfactory to Excellon, acting reasonably;
- (f) there shall not be any default existing under the Silver Eagle Debt Agreements that has not been cured to the satisfaction of Excellon, in its sole discretion, and Excellon will have received a certificate of the President and Chief Financial Officer of Silver Eagle certifying that no default exists under the Silver Eagle Debt Agreements;
- (g) none of the Voting Agreements shall have been terminated, and no event shall have occurred, that with notice or lapse of time or both, would give Excellon the right to terminate any of the Voting Agreements;
- (h) John W. Hick shall have delivered all shares of which he is the registered owner in the capital of each of San Pedro Resources, S.A. de C.V. and Prestadora de Servicios Miguel Auza, S.A. de C.V. duly endorsed for transfer to Excellon Resources U.S.A., Inc. or as Excellon may otherwise direct in writing;
- (i) holders of no more than 10% of the Silver Eagle Common Shares shall have exercised Dissent Rights; and
- (j) Excellon shall have received an opinion from Silver Eagle's Mexican counsel, in a form satisfactory to Excellon, acting reasonably, as to Silver Eagle's title to its Mexican properties.

The foregoing conditions precedent are for the benefit of Excellon and may be waived, in whole or in part, by Excellon in writing at any time. If any of such conditions precedent are not complied with or waived as aforesaid on or before the date required for the performance thereof then Excellon may, subject to Section 5.4, rescind and terminate this Agreement by written notice to Silver Eagle and will have no other right or remedy, except as set forth in Article 10.

### **5.3 Conditions to Obligations of Silver Eagle**

The obligation of Silver Eagle to complete the transactions contemplated herein is subject to the following conditions on or before the Effective Date or such other time as specified below:

- (a) the representations and warranties made herein by Excellon will be true and correct as of the Effective Date as if made on and as of such date (except to the extent such representations and warranties speak as of an earlier date, in which event they will be true as of such earlier date, or except as affected by transactions contemplated or permitted by this Agreement, or except for any failures or breaches of representations and warranties which, individually or in the aggregate, would not have a material adverse effect on Excellon or materially impede the completion of the Arrangement or the other transactions contemplated hereby), and Excellon will have provided to Silver Eagle a certificate of the President and Chief Financial Officer of Excellon certifying such accuracy on the Effective Date;
- (b) Excellon will have complied with its covenants herein (except to the extent that the failure to comply with such covenants has not had or would not have, individually or in the aggregate, a material adverse effect on Excellon or prevent or delay the completion of

the Arrangement or the other transactions contemplated herein), and Excellon will have provided to Silver Eagle, a certificate of the President and Chief Financial Officer of Excellon certifying that Excellon has complied with its covenants herein;

- (c) from the date hereof up to and including the Effective Date, there will have been no material adverse change in relation to Excellon;
- (d) Excellon and the Depositary will have executed and delivered the Depositary Agreement, in form and substance satisfactory to Silver Eagle, acting reasonably;
- (e) Excellon will have allotted and issued the Excellon Common Shares to be exchanged for Silver Eagle Common Shares pursuant to the Arrangement and delivered duly executed and countersigned certificates representing such Excellon Common Shares to the Depositary in accordance with the terms of the Arrangement;
- (f) Excellon will have granted the Replacement Options in exchange for the Silver Eagle Options held by Silver Eagle Optionholders, as at the Effective Time pursuant to the Arrangement and will have executed and delivered counterparts for stock option agreements in respect of such Replacement Options;
- (g) Excellon will have complied with Section 8.1 and 8.2; and
- (h) Silver Eagle will have received all such other documents and certificates as may reasonably be required by Silver Eagle in connection with completion of the Arrangement, including, without limitation, a legal opinion addressed to Silver Eagle and dated the Effective Date relating to the Excellon Common Shares and the Replacement Options, which opinion will be satisfactory in form and substance in all material respects to Silver Eagle and its counsel, acting reasonably.

The foregoing conditions precedent are for the benefit of Silver Eagle and may be waived, in whole or in part, by Silver Eagle in writing at any time. If any of such conditions precedent are not complied with or waived as aforesaid on or before the date required for the performance thereof then Silver Eagle may, subject to Section 5.4, rescind and terminate this Agreement by written notice to Excellon and will have no other right or remedy, except as set forth in Article 10.

#### **5.4 Notice and Cure Provisions**

Each Party will give prompt notice to the other of the occurrence, or failure to occur, at any time from the date hereof until the Effective Date, of any event or state of facts which occurrence or failure would, or would be likely to:

- (a) cause any of the representations or warranties of such Party contained herein to be untrue or inaccurate in any material respect prior to or at the Effective Time; or
- (b) result in the failure of such Party to comply with or satisfy any covenant, condition or agreement herein to be complied with or satisfied hereunder prior to or at the Effective Time.

No Party may elect to rescind and Terminate this Agreement as a result of the breach of any covenant, representations and warranties, agreement or other obligation of the other Party or as a result of any condition precedent contained in Sections 5.1, 5.2 or 5.3 not having been met, unless forthwith and in

any event prior to the filing of the Articles of Arrangement for acceptance by the Director, the Party intending to rescind and terminate this Agreement has delivered a written notice to the other Party setting out in reasonable detail all breaches or circumstances of non-fulfilment of an applicable condition precedent which the Party delivering such notice is asserting as its basis for rescinding and terminating this Agreement. If any such notice is delivered, provided that the other Party is proceeding diligently to cure such matter, no Party may terminate this Agreement until the expiration of a period of fifteen (15) Business Days from the date of delivery of such notice. If such notice has been delivered prior to the date of the Meeting, such Meeting will be postponed until the expiry of such period, as the case may be. If the breach of the covenant, representation and warranty, agreement or other obligation of a Party remains uncured or the condition precedent is not met within thirty (30) days following such notice the Party giving such notice may elect to rescind and terminate this Agreement pursuant to Subsection 10.1(c).

## **ARTICLE 6 NON-SOLICITATION, RIGHT TO MATCH AND BREAK FEE**

### **6.1 Covenants Regarding Non-Solicitation and Right to Match**

(a) When used in this Agreement, the following terms shall have the following meanings:

**"Acquisition Proposal"** means: (i) any merger, take-over bid, amalgamation, plan of arrangement, business combination, consolidation, recapitalization, liquidation, dissolution or winding-up in respect of Silver Eagle or any Silver Eagle Subsidiary; (ii) any sale or acquisition of 20% or more of the fair market value of the assets of Silver Eagle on a consolidated basis; (iii) any sale or acquisition of 20% or more of Silver Eagle's shares of any class or rights or interests therein or thereto; (vi) any sale of any interest in any material mineral properties; or (vii) any similar business combination or transaction, of or involving Silver Eagle or any Silver Eagle Subsidiary, other than with Excellon; or (viii) any proposal or offer to, or public announcement of an intention to do, any of the foregoing from any Person other than Excellon; and

**"Superior Proposal"** means an unsolicited bona fide Acquisition Proposal made by a third party to Silver Eagle in writing: (i) that is reasonably capable of being completed within a reasonable period of time, taking into account all legal, financial, regulatory and other aspects of such proposal and the party making such proposal; (ii) in respect of which any required financing to complete such Acquisition Proposal has been demonstrated to the satisfaction of the board of directors of Silver Eagle, acting in good faith, is reasonably likely to be obtained; (iii) which is not subject to a due diligence and/or access condition which would allow access to the books, records, personnel or properties of Silver Eagle or any Silver Eagle Subsidiary or their respective representatives for a period exceeding five (5) Business Days (provided that any party afforded such access is offered no more than the same access to the same information made available to Excellon); (iv) in respect of which the board of directors of Silver Eagle determines in good faith (after receipt of advice from its financial advisors with respect to (y) below and outside legal counsel with respect to (x) below) that (x) failure to recommend such Acquisition Proposal to Silver Eagle Shareholders would be inconsistent with its fiduciary duties and (y) which would, taking into account all of the terms and conditions of such Acquisition Proposal, if consummated in accordance with its terms, result in a transaction more favourable to Silver Eagle Shareholders from a financial point of view than the Arrangement; and (v) subject to compliance with the requirements of Section 6.1 hereof, the board of directors of Silver Eagle has determined to recommend to Silver Eagle Shareholders.

- (b) Silver Eagle shall not, directly or indirectly, through any officer, director, employee, representative (including for greater certainty any financial or other advisors) or agent of Silver Eagle or any Silver Eagle Subsidiary take any action of any kind which might, directly or indirectly, interfere with, the successful acquisition of Silver Eagle Common Shares by Excellon pursuant to the Arrangement, including, but not limited to, any action to: (i) solicit, assist, initiate, encourage or otherwise facilitate (including by way of furnishing non-public information, permitting any visit to any facilities or properties of Silver Eagle or any Silver Eagle Subsidiary, including any material mineral properties, or entering into any form of written or oral agreement) any inquiries, proposals or offers regarding any Acquisition Proposal; (ii) engage in any discussions or negotiations regarding, or provide any confidential information with respect to, any Acquisition Proposal provided that for greater certainty, Silver Eagle may advise any Person making an unsolicited Acquisition Proposal that such Acquisition Proposal does not constitute a Superior Proposal when the board of directors of Silver Eagle has so determined; (iii) withdraw, modify or qualify, or propose publicly to withdraw, modify or qualify, in any manner adverse to Excellon, the approval or recommendation of the board of directors of Silver Eagle or any committee thereof of this Agreement or the Arrangement; (iv) approve or recommend, or remain neutral with respect to, or propose publicly to approve or recommend, or remain neutral with respect to, any Acquisition Proposal (it being understood that publicly taking no position or a neutral position with respect to an Acquisition Proposal until 15 calendar days following the public announcement of such Acquisition Proposal shall not be considered to be a violation of this subsection 6.1(b)); or (v) accept or enter into, or publicly propose to accept or enter into, any letter of intent, agreement in principle, agreement, arrangement or undertaking related to any Acquisition Proposal (other than a confidentiality agreement as contemplated in subsection 6.1(c) hereof).
- (c) Notwithstanding subsection 6.1(b) hereof and any other provision of this Agreement, the board of directors of Silver Eagle shall be permitted to engage in discussions or negotiations with, or provide information pursuant to this Section 6.1 to, any Person who (without solicitation, initiation or encouragement, directly or indirectly, by Silver Eagle or its Representatives) seeks to initiate such discussions or negotiations, if and only to the extent that: (A) the board of directors of Silver Eagle has determined in good faith based on information then available and after consultation with its financial advisors that such negotiations could reasonably be expected to lead to a Superior Proposal (without taking into account clauses (vi) and (vii) of the definition of Superior Proposal); (B) prior to providing any information or data to such Person in connection with such Acquisition Proposal, Silver Eagle's board of directors receives from such Person an executed confidentiality agreement which includes a standstill provision (on terms no less favourable to Silver Eagle than those contained in the Confidentiality Agreement) that restricts such Person from announcing an intention to acquire, or acquiring, any securities or assets of Silver Eagle without the approval of Silver Eagle (other than pursuant to a Superior Proposal) for a period of not less than 12 months from the date of such confidentiality agreement; and provided further that Silver Eagle sends a copy of any such confidentiality agreement to Excellon promptly upon its execution and that Excellon is promptly provided with copies of any information provided to such Person that was not previously made available to Excellon; and (C) prior to providing any information or data to any such Person or entering into discussions or negotiations with any such Person, Silver Eagle has complied with subsection 6.1(e) hereof.

- (d) Silver Eagle shall cease and cause to be terminated any existing solicitation, encouragement, activity, discussion or negotiation with any Person by Silver Eagle or any Silver Eagle Subsidiary or any of its or their representatives or agents with respect to any Acquisition Proposal, whether or not initiated by Silver Eagle, and, in connection therewith, Silver Eagle shall discontinue access to any data rooms (virtual or otherwise) and shall request (and exercise all rights it has to require) the return or destruction of all information regarding Silver Eagle and its Subsidiaries previously provided to any such Person and shall request (and exercise all rights it has to require) the destruction of all material including or incorporating or otherwise reflecting any information regarding Silver Eagle and the Silver Eagle Subsidiaries. Silver Eagle shall not release any third party from any confidentiality agreement or standstill agreement (except to allow such party to propose, make and consummate a Superior Proposal).
- (e) Silver Eagle shall promptly (and in any event within 24 hours after it has received an Acquisition Proposal) notify Excellon, at first orally and then in writing, of such Acquisition Proposal (or any amendment thereto) or any request for non-public information relating to Silver Eagle or any Silver Eagle Subsidiary or any material mineral property received by Silver Eagle or of which Silver Eagle's directors, officers, representatives or agents are or became aware, or any amendments to the foregoing. Such notice shall include a description of the terms and conditions of, and the identity of the Person making the Acquisition Proposal (including any amendment thereto) and shall include copies of any such Acquisition Proposal or any amendment thereto. Silver Eagle shall also provide such other details of the Acquisition Proposal or any amendment thereto, as Excellon may reasonably request. Silver Eagle shall keep Excellon promptly and fully informed of the status, including any change to the material terms, of any Acquisition Proposal or any amendment thereto, and shall respond promptly to all inquiries by Excellon with respect thereto.
- (f) The Company shall ensure that its officers, directors, representatives, agents and legal and financial advisors, and the Silver Eagle Subsidiaries and their officers, directors, representatives, agents and legal and financial advisors, are aware of the provisions of subsections 6.1(b) to 6.1(e) hereof and agree to be bound thereby, and it shall be responsible for any breach of such provisions by any of them.
- (g) Silver Eagle shall not accept, approve or recommend, nor enter into any agreement relating to, an Acquisition Proposal (other than a confidentiality agreement contemplated by subsection 6.1(c)(C) hereof) unless:
  - (i) the Acquisition Proposal constitutes a Superior Proposal;
  - (ii) Silver Eagle has complied with subsections 6.1(b) through 6.1(h) hereof, inclusive;
  - (iii) Silver Eagle has provided Excellon with notice in writing that there is a Superior Proposal together with all documentation related to and detailing the Superior Proposal (including a copy of the confidentiality agreement between Silver Eagle and the Person making the Superior Proposal if not previously delivered) at least five (5) Business Days prior to the date on which the board of directors of Silver Eagle proposes to accept, approve, recommend or to enter into any agreement relating to such Superior Proposal;

- (iv) five (5) Business Days shall have elapsed from the later of the date Excellon received notice of Silver Eagle's proposed determination to accept, approve, recommend or to enter into any agreement relating to such Superior Proposal, and the date Excellon received a copy of the written proposal in respect of the Acquisition Proposal and, if Excellon has proposed to amend the terms of the Offer in accordance with subsection 6.1(h) hereof, the board of directors of Silver Eagle (after receiving advice from its financial advisors and outside legal counsel) shall have determined in good faith that the Acquisition Proposal is a Superior Proposal compared to the proposed amendment to the terms of the Arrangement or other such amended offer by Excellon;
  - (v) if Silver Eagle proposes to enter into a definitive agreement with respect to a Superior Proposal after complying with this subsection 6.1(g), Silver Eagle concurrently terminates this Agreement pursuant to Section 10.1 hereof; and
  - (vi) in the case of (v) above, Silver Eagle has previously, or concurrently shall have, paid to Excellon the Termination Fee.
- (h) Silver Eagle acknowledges and agrees that, during the five (5) Business Day period referred to in subsection 6.1(g) (iv) hereof, Excellon shall have the opportunity, but not the obligation, to propose to amend the terms of the Arrangement, including but not limited to the opportunity to amend the structure of Excellon's offer. The board of directors of Silver Eagle shall review any proposal by Excellon to amend the terms of the Offer in order to determine, in good faith in the exercise of its fiduciary duties, whether Excellon's proposal to amend the Arrangement or such other amended offer by Excellon would result in the Acquisition Proposal not being a Superior Proposal compared to the proposed amendment to the terms of the Arrangement.

The board of directors of Silver Eagle shall promptly reaffirm its recommendation of the Arrangement by press release after: (x) any Acquisition Proposal (which is determined not to be a Superior Proposal) is publicly announced or made; or (y) the board of directors of Silver Eagle determines that a proposed amendment to the terms of the Offer would result in the Acquisition Proposal which is publicly announced or made not being a Superior Proposal, and Excellon has so amended the terms of the Arrangement. Excellon and its counsel and other advisors shall be given a reasonable opportunity to review and comment on the form and content of any such press release.

Nothing in this Agreement shall prevent the board of directors of Silver Eagle from responding through a directors' circular or otherwise as required by applicable Securities Laws to an Acquisition Proposal that it determines is not a Superior Proposal.

- (i) Silver Eagle also acknowledges and agrees that each successive modification of any Acquisition Proposal shall constitute a new Acquisition Proposal for purposes of this Section 6.1.

## **6.2 Break Fee**

- (a) Silver Eagle shall pay the Termination Fee to Excellon, by way of a wire transfer in immediately available funds to an account specified by Excellon, if:

- (i) this Agreement is terminated in the circumstances set out in subsections 10.1(g) or 10.1(h);
- (ii) this Agreement is terminated pursuant to subsection 10.1(f) hereof as a result of Silver Eagle being in default of any of its covenants or obligations contained in Section 4.1 or 4.2 hereof; or
- (iii) (A) prior to the termination of this Agreement an Acquisition Proposal is publicly announced or otherwise made; and (B) during the period commencing on the date hereof and ending 12 months following the termination of this Agreement (X) such Acquisition Proposal is consummated, or (Y) the board of directors of Silver Eagle approves or recommends such Acquisition Proposal, or Silver Eagle enters into a definitive agreement with respect to such Acquisition Proposal, and that Acquisition Proposal is subsequently consummated at any time thereafter.

Such payment shall be due: (A) in the case of a termination specified in clause (i) or (ii) above, forthwith (and in any event within two (2) Business Days) following the termination of this Agreement but prior to or concurrently with termination in the case of a termination pursuant to subsection 10.1(h) hereof; and (B) in the case of the circumstances specified in clause (iii) above, prior to or concurrently with the consummation of the Acquisition Proposal.

- (b) Excellon shall pay the Termination Fee to Silver Eagle, by way of a wire transfer in immediately available funds to an account specified by Silver Eagle, if this Agreement is terminated in accordance with subsection 10.1(e).
- (c) Each of Excellon and Silver Eagle acknowledges that the amount set out in this Section 6.2 in respect of the Termination Fee represents liquidated damages which are a genuine pre-estimate of the damages, including opportunity costs, which Excellon or Silver Eagle shall suffer or incur as a result of the event giving rise to such damages and resultant termination of this Agreement, and is not a penalty. Each of Excellon and Silver Eagle irrevocably waives any respective rights they may have to raise as a defence that any such liquidated damages are excessive or punitive.
- (d) Payment by either Party to the other Party of the Termination Fee will be net of any and all withholdings and other deductions. To the extent that either Party is required to withhold any amount from the Termination Fee that it is paying, the amount of the payment will be grossed-up so that the receiving Party will receive the same amount after any and all required withholdings that it would have been entitled to receive if no withholdings were required to be made.

## **ARTICLE 7 CLOSING**

### **7.1 Pre-Closing**

Pre-closing of the Arrangement shall take place at the offices of Heenan Blaikie LLP at Royal Bank Plaza, South Tower, 200 Bay St., Suite 2600, Toronto, Ontario at 2:00 p.m. on the second Business Day after the Final Order is granted by the Court (or at such other time or on such other date as they may agree) and each Party will deliver to the other Party the documents required to be delivered by it hereunder to complete the transactions contemplated hereby (provided that each such document required

to be dated the Effective Date will be dated as of the Effective Date and held in escrow to be released upon the acceptance of the Articles of Arrangement for filing by the Director).

## **7.2 Filing of Articles of Arrangement**

At 10:00 a.m. on the Effective Date, which shall occur on the Business Day after the day on which the parties have met as provided in Section 7.1, Silver Eagle will forthwith file the Articles of Arrangement and all other documents necessary to effect the Arrangement with the Director to become effective as of the Effective Time.

## **7.3 Arrangement and Closing**

Silver Eagle will promptly advise Excellon as to the date on which the Articles of Arrangement are accepted for filing by the Director and the documents held in escrow pursuant to Section 7.1 will, upon such acceptance, be released and the Parties will exchange such other documents as are required by this Agreement and the Arrangement.

## **7.4 Post-Closing Obligations**

Excellon covenants and agrees to perform all acts required by it pursuant to the terms of the Arrangement.

# **ARTICLE 8 INDEMNIFICATION AND INSURANCE**

## **8.1 Indemnification of Directors and Officers**

For a period of six years after the Effective Date, Excellon shall: (i) maintain in effect the current or substantially similar provisions regarding indemnification of directors and officers contained in the constating documents of Silver Eagle and any directors, officers or employees indemnification agreements of Silver Eagle; and (ii) indemnify the directors and officers of Silver Eagle to the fullest extent to which Silver Eagle are permitted to indemnify such directors and officers under their respective constating documents and applicable Law.

## **8.2 Insurance**

In addition to its obligations in Section 8.1, Excellon shall maintain in effect for a period of six years after the Effective Date on a “trailing” or “run-off” basis, Silver Eagle’s current policy or policies or comparable policies of directors’ and officers’ liability insurance and fiduciary liability insurance providing coverage to the directors and officers of Silver Eagle with respect to claims arising from facts or events which occurred on or before the Effective Date. Such coverage shall be on the same terms, in all material respects, as the coverage currently provided under policies maintained by Silver Eagle for the protection of directors and officers.

# **ARTICLE 9 AMENDMENT**

## **9.1 Amendment**

Subject to any requirements imposed by applicable Law or by the Court, this Agreement may, at any time, and from time to time before and after the holding of the Meeting but not later than the



Effective Date, be amended by written agreement of the Parties and any such amendment may, subject to the Interim Order and the Final Order, without limitation:

- (a) change the time for performance of any of the obligations or acts of any of the Parties;
- (b) waive any inaccuracies or modify any representation contained herein or in any documents to be delivered pursuant hereto;
- (c) waive compliance with or modify any of the covenants or conditions herein contained or waive or modify performance of any of the obligations of any of the Parties hereto;
- (d) waive compliance with or modify any conditions precedent set out herein; and
- (e) complete or modify any Schedule of this Agreement, whether or not it is in substantially the form attached hereto.

Notwithstanding the foregoing, the terms of the Arrangement and this Agreement will not be amended in a manner prejudicial to either the Silver Eagle Shareholders without the approval of such Silver Eagle Shareholders given in the same manner as required for the approval of the Arrangement Resolution or as may be ordered by the Court or required by applicable Law.

## **9.2 Amendment Resulting from Final Order**

This Agreement and the Arrangement may be amended in accordance with the Final Order by written agreement of the Parties hereto, provided that if the terms of the Final Order require any such amendment, the obligations of the parties hereto under Sections 4.1, 4.2, 4.3, 4.4, 4.5, 6.1, 6.2, 8.1 and 8.2 will remain unaffected. Notwithstanding the foregoing, the terms of the Arrangement and this Agreement will not be amended in a manner prejudicial to the Silver Eagle Shareholders without the approval of the Silver Eagle Shareholders given in the same manner as required for the approval of the Arrangement Resolution or as may be ordered by the Court or required by applicable Law.

## **9.3 No Other Amendment Permitted**

This Agreement may only be amended or varied pursuant to this Article 9.

# **ARTICLE 10 TERMINATION**

## **10.1 Termination**

This Agreement may be terminated at any time prior to the Effective Date:

- (a) by mutual written consent of Excellon and Silver Eagle;
- (b) by either party if any condition precedent to its obligations has not been satisfied or waived by the Completion Deadline or where it is clear that the condition cannot be satisfied prior to the Completion Deadline provided that such Party is not in material breach of its obligations hereunder;
- (c) by Excellon or Silver Eagle, if the Effective Date of the Arrangement has not occurred by June 30, 2009 (the “**Completion Deadline**”) provided the terminating Party is not in material breach of its obligations hereunder;

- (d) by Excellon, if (i) any court of competent jurisdiction or other Governmental Authority shall have issued an order, decree or ruling enjoining or otherwise prohibiting the Arrangement (unless such order, decree or ruling has been withdrawn, reversed or otherwise made inapplicable); or (ii) any litigation or other proceeding is pending or has been threatened to be instituted by any Person or Governmental Authority, which, in the good faith judgment of Excellon, could reasonably be expected to result in a decision, order, decree or ruling which enjoins, prohibits, grants damages in a material amount in respect of, or materially impairs the benefits of, the Arrangement;
- (e) by Silver Eagle, if (i) Excellon has not complied in all material respects with its covenants or obligations under this Agreement or (ii) any representation or warranty of Excellon set out in this Agreement shall have been at the date hereof untrue or incorrect or shall have become untrue or incorrect in a material respect at any time prior to the Effective Time (except for those expressly stated to speak at or as of any earlier time) and such untrue or incorrect representation or warranty is not curable or, if curable, is not cured by the earlier of such date which is ten (10) Business Days from the date of notice of such breach and the Effective Time, except for any untrue or incorrect representations or warranties which, individually or in the aggregate, would not, or would not reasonably be expected to, have a material adverse effect on Excellon;
- (f) by Excellon, if (i) Silver Eagle has not complied in all material respects with any of its covenants or obligations under this Agreement; or (ii) any representation or warranty of Silver Eagle set out in this Agreement shall have been at the date hereof untrue or incorrect or shall have become untrue or incorrect at any time prior to the Effective Time (except for those expressly stated to speak at or as of any earlier time) and such untrue or incorrect representation or warranty is not curable or, if curable, is not cured by the earlier of such date which is ten (10) Business Days from the date of notice of such breach and the Effective Time, except for any untrue or incorrect representations or warranties which, individually or in the aggregate, would not, or would not reasonably be expected to, prevent or materially delay the completion of the Arrangement or have a material adverse effect on Silver Eagle;
- (g) by Excellon, if: (i) the board of directors of Silver Eagle or any committee thereof fails to recommend or withdraws, modifies, changes or qualifies its approval or recommendation of this Agreement or the Arrangement in any manner adverse to Excellon including, without limitation, failing to publicly affirm its approval or recommendation of the Arrangement within five (5) calendar days of any written request to do so from Excellon; or (ii) the board of directors of Silver Eagle or any committee thereof recommends or approves, or publicly proposes to recommend or approve or remains neutral beyond the 15 calendar day period set out in subsection 6.1(b) hereof, an Acquisition Proposal; and
- (h) by Silver Eagle, if Silver Eagle proposes to enter into a definitive agreement with respect to a Superior Proposal in compliance with the provisions of subsection 6.1(g) hereof, provided that Silver Eagle has previously or concurrently shall have paid to Excellon the Termination Fee and further provided that Silver Eagle has not breached any of its covenants, agreements or obligations in this Agreement.

## **10.2 Effect of Termination**

In the event of the termination of this Agreement, this Agreement will forthwith become void and no Party will have any or further obligation to the other Party hereunder except with respect to the

obligations set forth in Section 4.5 and Article 6 which will survive such termination. Nothing in this Section 10.2 will relieve or have the effect of resulting in relieving any Party in any way from liability for damages incurred or suffered by a Party as a result of a breach of this Agreement by a Party.

## **ARTICLE 11 GENERAL**

### **11.1 Access to Information and Confidentiality**

From the date hereof until the earlier of the Effective Time and the termination of this Agreement, subject to compliance with applicable Law and the terms of any existing contracts, Silver Eagle shall, and shall cause its subsidiaries and their respective officers, directors, employees, independent auditors, accounting advisers and agents to, afford to Excellon and to the officers, employees, agents and representatives of Excellon such access as Excellon may reasonably require at all reasonable times, including for the purpose of facilitating integration business planning, to their officers, employees, agents, properties, books, records and contracts, and shall furnish Excellon with all data and information as Excellon may reasonably request. Excellon and Silver Eagle acknowledge and agree that information furnished pursuant to this Section 11.1 shall be subject to the terms and conditions of the Confidentiality Agreement.

### **11.2 Expenses**

The Parties agree that all out-of-pocket third party transaction expenses of the Arrangement, including legal fees, financial advisor fees, regulatory filing fees, all disbursements by advisors and printing and mailing costs, will be paid by the Party incurring such expense.

### **11.3 Notice**

Any notice, direction or other instrument required or permitted to be given hereunder will be in writing and may be given by delivering the same or sending the same by facsimile transmission addressed as follows:

(a) if to Excellon:

Excellon Resources Inc.  
20 Victoria Street  
Suite 900  
Toronto, Ontario, M5C 2N8

Facsimile No: (416) 416-364-6745  
Attention: Peter A. Crossgrove, Chairman and Interim Chief Executive  
Officer

and with a copy to:

Heenan Blaikie LLP  
200 Bay St., Suite 2600  
Toronto, ON M5J 2J4

Facsimile No: (416) 360-8425  
Attention: James McVicar

if to Silver Eagle:

Silver Eagle Mines Inc.  
130 Bloor Street West  
Suite 905  
Toronto, Ontario M5S 1N5

Facsimile No: (416) 361-9280  
Attention: John W. Hick, Chairman

and with a copy to:

Stikeman Elliott  
5300 Commerce Court West  
199 Bay Street  
Toronto, Ontario M5L 1B9

Facsimile No: (416) 947-0866  
Attention: Raymond McDougall

Any such notice, direction or other instrument, whether delivered or transmitted by facsimile transmission, will be deemed to have been given at the time and on the date on which it was delivered to or received in the office of the addressee, as the case may be, if delivered or transmitted prior to 4:30 p.m. (local time) on a Business Day or at 9:00 a.m. (local time) on the subsequent Business Day if delivered or transmitted subsequent to such time.

- (b) Either Party hereto may change its address for service from time to time by notice given to the other Party hereto in accordance with this Section 11.3.
- (c) Any notice, direction or other instrument delivered under this Agreement will be signed by one or more duly authorized officers of the Party delivering it.
- (d) The delivery of any notice, direction or other instrument, or a copy thereof, to a Party hereunder will be deemed to constitute the representation and warranty of the Party who has delivered it to the other Party that such delivering Party is authorized to deliver such notice, direction or other instrument at such time under this Agreement (unless the receiving Party has actual knowledge to the contrary) and the receiving Party will not be required to make any inquiry to confirm such authority.

#### **11.4 Time of Essence**

Time is of the essence of this Agreement.

#### **11.5 Enurement**

This Agreement will be binding upon and enure to the benefit of the Parties hereto and their respective successors and permitted assigns.

### **11.6 Prohibition Against Assignment**

None of the Parties hereto may assign its rights or obligations under this Agreement without the prior written consent of the other Party.

### **11.7 Third Party Beneficiaries**

Each Party hereto intends that this Agreement will not benefit or create any right or give rise to any action on behalf of any person other than the Parties hereto, and no person other than the Parties hereto will be entitled to rely on the provisions hereof.

### **11.8 Disclosure**

Except as required by applicable Laws, neither Excellon nor Silver Eagle will issue any news release, make any public announcement or statement or make any filing with any Governmental Authority with respect to the Arrangement or this Agreement without the consent of the other Party. In any event, each Party agrees to use all commercially reasonable efforts to give prior notice to the other Party of any news release, public announcement or filing with any Governmental Authority relating to the Arrangement or this Agreement and to consult with the other Party prior to making any such release, announcement or filing.

### **11.9 Counterpart Executions and Facsimile Transmissions**

This Agreement may be executed in counterparts, each of which when delivered (whether in originally executed form or by facsimile or “.pdf” transmission) will be deemed to be an original and all of which together will constitute one and the same document.

**[remainder of page blank]**

IN WITNESS WHEREOF this Agreement has been signed, sealed and delivered by the parties hereto as of the date first above written.

**EXCELLON RESOURCES INC.**

By: (signed) "*Peter A. Crossgrove*" \_\_\_\_\_  
Peter A. Crossgrove  
Chairman and Interim Chief Executive Officer

**SILVER EAGLE MINES INC.**

By: (signed) "*John W. Hick*" \_\_\_\_\_  
John W. Hick  
Chairman

## SCHEDULE "A"

### ARRANGEMENT RESOLUTION

#### BE IT RESOLVED THAT:

1. The arrangement (the "**Arrangement**") under Section 182 of the *Business Corporations Act* (Ontario) (the "**OBCA**") involving Silver Eagle Mines Inc. (the "**Company**"), as more particularly described and set forth in the management proxy circular (the "**Circular**") of the Company dated ●, 2009, accompanying the notice of this meeting (as the Arrangement may be amended, modified or supplemented in accordance with its terms), is hereby authorized, approved and adopted.
2. The plan of arrangement (the "**Plan of Arrangement**") involving the Company (as it has been or may be amended, modified or supplemented in accordance with its terms) and the implementation of the Arrangement, the full text of which is set out in Appendix A to this resolution, is hereby authorized, approved and adopted.
3. The (i) arrangement agreement dated as of March 20, 2009 between the Company and Excellon Resources Inc. (the "**Arrangement Agreement**") and related transactions, (ii) actions of the directors of the Company in approving the Arrangement Agreement, and (iii) actions of the directors and officers of the Company in executing and delivering the Arrangement Agreement, and any amendments, modifications or supplements thereto, are hereby ratified and approved.
4. The Company be and is hereby authorized to apply for a final order (the "**Final Order**") from the Superior Court of Justice (Ontario) to approve the Arrangement on the terms set forth in the Arrangement Agreement and the Plan of Arrangement (as they may be amended, modified or supplemented and as described in the Circular).
5. Notwithstanding that this resolution has been passed (and the Arrangement adopted) by the shareholders of the Company or that the Arrangement has been approved by the Superior Court of Justice (Ontario), the directors of the Company are hereby authorized and empowered to, without notice to or approval of the shareholders of the Company, (i) amend, modify or supplement the Arrangement Agreement or the Plan of Arrangement to the extent permitted by the Arrangement Agreement and (ii) subject to the terms of the Arrangement Agreement, not to proceed with the Arrangement and related transactions.
6. Any officer or director of the Company is hereby authorized and directed for and on behalf of the Company to execute and deliver for filing with the Director under the OBCA articles of arrangement and such other documents as are necessary or desirable to give effect to the Arrangement in accordance with the Arrangement Agreement and the Final Order, such determination to be conclusively evidenced by the execution and delivery of such articles of arrangement and any such other documents.
7. Any officer or director of the Company is hereby authorized and directed for and on behalf of the Company to execute or cause to be executed and to deliver or cause to be delivered all such other documents and instruments and to perform or cause to be performed all such other acts and things as such person determines may be necessary or desirable to give full effect to the foregoing resolution and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such document or instrument or the doing of any such act or thing.

## APPENDIX A

### PLAN OF ARRANGEMENT MADE PURSUANT TO SECTION 182 OF THE BUSINESS CORPORATIONS ACT (ONTARIO)

#### ARTICLE 1 INTERPRETATION

##### 1.1 Definition

In this Plan, the following terms have the following respective meanings:

“**Act**” means the *Business Corporations Act* (Ontario) as now in effect and as it may be amended from time to time prior to the Effective Date;

“**Arrangement**” means the arrangement of Silver Eagle proposed under the Act and contemplated by this Plan;

“**Articles of Arrangement**” means the articles of arrangement of Silver Eagle in respect of the Arrangement to be filed with the Director pursuant Section 183(1) of the Act;

“**Business Day**” means, with respect to any action to be taken, any day other than Saturday, Sunday or a statutory holiday in the place where such action is to be taken;

“**Certificate of Arrangement**” means the certificate of arrangement to be issued by the Director in respect of the Arrangement and the Articles of Arrangement pursuant to Section 183(2) the Act, giving effect to the Arrangement;

“**Circular**” means the information circular, together with all appendices thereto, relating to the Meeting;

“**Court**” means the Superior Court of Ontario;

“**Depositary**” means Computershare Trust Company of Canada;

“**Director**” means the director appointed under Section 278 of the Act;

“**Dissent Procedures**” has the meaning ascribed thereto in Section 4.1;

“**Dissenting Shareholder**” means a Silver Eagle Shareholder who dissents in respect of the Arrangement in strict compliance with the Dissent Procedures;

“**Effective Date**” means the date shown on the Certificate of Amendment, which is expected to be on or about ●, 2009;

“**Excellon**” means Excellon Resources Inc.;

“**Excellon Common Share**” means a common share in the share capital of Excellon;

“**Excellon Share Certificates**” means certificates representing Excellon Common Shares;

“**Letter of Transmittal**” means the letter of transmittal delivered to Silver Eagle Shareholders with the Circular which, when duly completed, executed and returned with a certificate or certificates for Silver



Eagle Common Shares, will enable an Silver Eagle Shareholder to exchange such certificate or certificates for Excellon Share Certificates that such Silver Eagle Shareholder has a right to receive pursuant to the Arrangement;

“**Meeting**” means the special general meeting of the Silver Eagle Shareholders, including any adjournment thereof, to be held to consider and, if deemed advisable, approve the Arrangement;

“**Plan**” means this Arrangement plan, including all appendices to this plan, as amended or supplemented from time to time, and “hereby”, “hereof”, “herein” “hereunder”, “herewith” and similar expressions refer to the Arrangement and not to any particular provision of this Plan;

“**Silver Eagle**” means Silver Eagle Mines Inc.;

“**Silver Eagle Common Share**” means a common share in the share capital of Silver Eagle;

“**Silver Eagle Optionholder**” means a holder of Silver Eagle Options;

“**Silver Eagle Options**” means options to purchase Silver Eagle Common Shares; and

“**Silver Eagle Shareholder**” means a holder of Silver Eagle Common Shares.

## **1.2 Headings**

The section and article headings in this Plan have been inserted for convenience of reference only and shall not be construed to affect the meaning, construction or effect of this Plan.

## **1.3 Interpretation**

Words importing the singular number only shall include the plural and vice versa. Words importing gender shall include all genders. Where the word “**including**” or “**includes**” is used in this Plan it means “**including without limitation**” or “**includes without limitation**”, respectively.

The words “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**” and similar expressions refer to this Plan and include every instrument supplemental or ancillary to or in implementation of this Plan and, except where the context otherwise requires, not to any particular article, section or other portion hereof or thereof. Any reference to any document shall include a reference to any schedule, amendment or supplement thereto or any agreement in replacement thereof, all as permitted under such document.

Capitalized terms used herein and not otherwise defined shall have the meaning ascribed thereto in the arrangement agreement dated March 20, 2009 between Excellon and Silver Eagle.

## **1.4 Funds**

All dollar amounts referred to in this Plan are in lawful money of Canada.

## **1.5 Calculation of Delays**

Unless otherwise specified, time periods within or following which any act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following, if the last day of the period is not a Business Day.

In the event that any day on which any action is required to be taken hereunder by any of the parties hereto is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

## **1.6 Governing Law**

The provisions of this Plan shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

## **1.7 Statutory References**

A reference to a statute includes all regulations made pursuant to such statute and, unless otherwise specified, the provisions of any statute or regulation which amends, supplements or supersedes any such statute or any such regulation.

## **1.8 Time**

Time is of the essence in the performance of the parties' respective obligations.

## **ARTICLE 2 ARRANGEMENT AGREEMENT**

### **2.1 Arrangement**

This Plan is made pursuant to, is subject to the provisions of, and forms part of, the Arrangement Agreement, except for the steps comprising the Arrangement, which shall occur in the order set forth herein.

## **ARTICLE 3 ARRANGEMENT**

### **3.1 Steps**

At the Effective Time, each of the following shall occur and be deemed to occur in the sequence set out below, without further act or formality:

- (a) each Silver Eagle Common Share held by a Dissenting Shareholder shall be deemed to have been transferred by the holder thereof, without any further act or formality on its part, and free and clear of all liens, claims and encumbrances, to Excellon, and Excellon shall thereupon be obligated to pay the amount therefor determined and payable in accordance with Article 4 hereof, and the name of such holder shall be removed from the securities register as a holder of Silver Eagle Common Shares and Excellon shall be recorded as the registered holder of the Silver Eagle Common Shares so transferred and shall be deemed to be the legal owner of such Silver Eagle Common Shares.
- (b) each Silver Eagle Common Share held by a Silver Eagle Shareholder (other than a Dissenting Shareholder or Excellon or any subsidiary of Excellon) shall be transferred to Excellon and in consideration therefor Excellon shall issue Excellon Common Shares on the basis of 0.2704 of a fully paid and non-assessable Excellon Common Share (the "**Share Exchange Ratio**") for each Silver Eagle Common Share, subject to Article 5 hereof.

- (c) each Silver Eagle Option outstanding immediately prior to the Effective Time, whether or not vested, shall be exchanged for an option issued by Excellon (a “**Replacement Option**”) to acquire (on the same terms and conditions as were applicable to such Silver Eagle Option immediately before the Effective Time under the Silver Eagle Option Plan and the agreement evidencing the grant), the number (rounded down to the nearest whole number) of Excellon Common Shares equal to the product of: (A) the number of Silver Eagle Common Shares subject to such Silver Eagle Option immediately prior to the Effective Time and (B) the Share Exchange Ratio. The exercise price per Excellon Common Share subject to any such Replacement Option shall be the amount (rounded up to the nearest one-hundredth of a cent) equal to the quotient of (A) the exercise price per Silver Eagle Common Share subject to such Silver Eagle Option immediately before the Effective Time divided by (B) the Share Exchange Ratio.

## **ARTICLE 4 DISSENTING SHAREHOLDERS**

### **4.1 Rights of Dissent**

Holders of Silver Eagle Common Shares may exercise rights of dissent in connection with this Plan in the manner set forth in section 185 of the Act as modified by the Interim Order, the Final Order and this Section 4.1 (the “**Dissent Procedures**”). In particular, notwithstanding subsection 185(6) of the Act, the written objection to the special resolution approving the Arrangement referred to in subsection 185(6) of the Act must be received by Silver Eagle not later than 5:00 p.m. on the second Business Day preceding the Meeting or any date to which the Meeting may be postponed or adjourned and provided further that holders of Silver Eagle Common Shares who:

- (a) are ultimately entitled to be paid the fair value of their Silver Eagle Common Shares, will not be entitled to any other payment or consideration including any payment that would be payable under the Arrangement had such Registered Holders not exercised their Dissent Right; or
- (b) are ultimately not entitled, for any reason, to be paid the fair value of their Silver Eagle Common Shares, will be deemed to have participated in the Arrangement, as of the Effective Time, on the same basis as all of the other holders of Silver Eagle Common Shares.

### **4.2 Recognition of Dissenting Shareholders**

Neither the Corporation, any of the parties to the Arrangement Agreement nor any other person shall be required to recognize a Dissenting Shareholder as a holder of Silver Eagle Common Shares from and after the Effective Time, nor as having any interest in Silver Eagle, Excellon or any other party hereto, and, from and after the Effective Time, the names of Dissenting Shareholders shall be deleted from the register of holders of Silver Eagle Common Shares maintained by Silver Eagle.

## **ARTICLE 5 OUTSTANDING CERTIFICATES**

### **5.1 Right to Certificates**

- (a) On or before the Effective Time, Excellon shall deposit with the Depositary, for the benefit of the Silver Eagle Shareholders (other than Dissenting Shareholders) certificates

representing that number of Excellon Common Shares to be delivered pursuant to Section 3.1 hereof upon the exchange of the Silver Eagle Common Shares.

- (b) As soon as practicable following the later of the Effective Time and the date of deposit with the Depositary of a duly completed Letter of Transmittal, the certificates which immediately prior to the Effective Time represented the Silver Eagle Common Shares, and such other documents and instruments as the Depositary may reasonably require, Excellon shall cause the Depositary:
- (i) to forward or cause to be forwarded by first class mail (postage prepaid) to each Silver Eagle Shareholder (other than Dissenting Shareholders) at the address specified in the Letter of Transmittal;
  - (ii) if requested by such Silver Eagle Shareholder in the Letter of Transmittal, to make available at the Depositary for pick-up by such Silver Eagle Shareholder; or
  - (iii) if the Letter of Transmittal neither specifies an address nor contains a request for pick-up, to forward or cause to be forwarded to such Silver Eagle Shareholder at the address of such Silver Eagle Shareholder on the share register of Silver Eagle, by first class mail (postage prepaid);

certificates representing that number of Excellon Common Shares and which such Silver Eagle Shareholder has the right to receive and the certificate representing the Silver Eagle Common Shares so surrendered shall be cancelled.

- (c) Until surrendered as contemplated by this Section 5.1, each certificate which immediately prior to the Effective Time represented Silver Eagle Common Shares that were transferred and exchanged pursuant to Article 3 shall be deemed at all times after the Effective Time to represent only the right to receive upon such surrender, subject to Section 5.4, the entitlements described in this Article 5.

## **5.2 Withholding Rights**

Excellon and the Depositary will be entitled to deduct and withhold from any consideration payable to any Silver Eagle Shareholder all amounts that Excellon or the Depositary is required to deduct and withhold with respect to that payment under the *Income Tax Act* (Canada), the United States Internal Revenue Code of 1986, in each case as amended, or any applicable provision of federal, provincial, territorial, state, local or foreign tax law, and to remit such withheld amounts to the relevant taxation authorities. To the extent that amounts are so withheld, those withheld amounts will be treated for all purposes of this Arrangement as having been paid to the Silver Eagle Shareholder in respect of which that deduction and withholding was made, provided that those withheld amounts are actually remitted to the appropriate taxation authority.

## **5.3 Distributions with Respect to Unsurrendered Certificates**

No dividends or other distributions declared or made effective after the Effective Time with respect to Excellon Common Shares with a record date after the Effective Time shall be paid to the holder of any unsurrendered certificate (which immediately prior to the Effective Time represented outstanding Silver Eagle Common Shares which were exchanged pursuant to Section 3.1) unless or until the holder of such certificate shall surrender such certificate in accordance with Section 5.1. Subject to applicable law, at

the time of such surrender of any such certificate (or, in the case of clause (ii) below, at the appropriate payment date), there shall be paid to the Registered Holder, without interest (i) the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to the Excellon Common Shares, to which such Registered Holder is entitled; or (ii) on the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to surrender and a payment date subsequent to surrender, payable with respect to the Excellon Common Shares, to which such holder is entitled.

#### **5.4 No Fractional Shares**

No certificates representing fractional Excellon Common Shares shall be issued upon the surrender for exchange pursuant to Section 5.1 of certificates representing Silver Eagle Common Shares. The number of Excellon Common Shares to be received by a Silver Eagle Shareholder will be rounded up to the nearest whole Excellon Common Share, in the event that the former Silver Eagle Common Shareholder is entitled to receive a fractional share representing 0.5 or more of an Excellon Common Share and be rounded down to the nearest whole Excellon Common Share, in the event that the former Silver Eagle Common Shareholder is entitled to receive a fractional share representing less than 0.5 of an Excellon Common Share.

#### **5.5 Extinguishment of Rights**

Notwithstanding any of the other provisions hereof, any certificate which immediately prior to the Effective Time represented outstanding Silver Eagle Common Shares that were exchanged pursuant to Section 3.1, if it has not been surrendered with all other instruments required by this Section 5.5 on or prior to the sixth anniversary of the Effective Date, shall cease to represent a claim or interest of any kind or nature against any party. In such circumstances, the Registered Holder ultimately entitled to receive Excellon Common Shares hereunder shall be deemed to have surrendered such entitlement to Excellon, respectively, or its successor entity, as applicable, together with all entitlement to dividends, distributions and cash thereon held for such former Silver Eagle Shareholder for no consideration.

#### **5.6 Lost Certificates**

In the event any certificate which immediately prior to the Effective Time represented one or more outstanding Silver Eagle Common Shares that were to be exchanged pursuant to Section 3.1 shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the holder claiming such certificate to be lost, stolen or destroyed, the Depositary will issue in exchange for such lost, stolen or destroyed certificate, any certificates pursuant to this Section 5.6 deliverable in accordance with such holder's Letter of Transmittal. When authorizing such issuance in exchange for any lost, stolen or destroyed certificate, the holder to whom certificates are to be delivered and issued shall, as a condition precedent to the delivery and issuance thereof, give a bond satisfactory to Excellon, or its respective successor entities, and their respective transfer agents in such sum as Excellon, or its respective successor entities, may direct, or otherwise indemnify Excellon and its respective successor entities, in a manner satisfactory to Excellon and its respective successor entities, against any claim that may be made against Excellon, or its respective successor entities, with respect to the certificate alleged to have been lost, stolen or destroyed.

**ARTICLE 6  
GENERAL**

**6.1 Right to Amendment**

The parties to the Arrangement Agreement may amend, modify or supplement this Plan from time to time and at any time prior to the Effective Time, provided that any such amendment, modification or supplement must be (i) set out in writing; (ii) agreed to by the parties to the Arrangement Agreement in accordance with the Arrangement Agreement; (iii) filed with the Court and, if made following the Meeting, approved by the Court; and (iv) communicated to the Silver Eagle Shareholders in the manner required by the Court (if so required).

**6.2 Amendments Before Meeting**

Any amendment, modification or supplement to this Plan may be proposed by the parties to the Arrangement Agreement at any time prior to or at the Meeting with or without any other prior notice or communication, and if so proposed and accepted by the Silver Eagle Shareholders voting at the Meeting, in the manner required by the Interim Order, shall become part of this Plan for all purposes.

**6.3 Amendment After Meeting**

Any amendment, modification or supplement to this Plan which is approved by the Court following the Meeting shall be effective only if (i) it is consented to by the parties to the Arrangement Agreement; and (ii) if required by the Court or applicable law, it is consented to by the Silver Eagle Shareholders.

## **SCHEDULE "B"**

### **SILVER EAGLE DIRECTORS AND OFFICERS**

<b><u>Name</u></b>	<b><u>Position</u></b>
Terrence H. Byberg	Director and Officer (President, Chief Executive Officer and Corporate Secretary)
John W.W. Hick	Director and Officer (Chairman)
Kenneth G. Byberg	Director
Peter N. Calder	Director
John C. McConnell	Director
Daniel Tellechea Salido	Director
Javier Aguirre Sanchez	Director
Adolfo Fernando Vera	Officer (Executive Vice President and Chief Financial Officer)