

**AMENDMENT NO. 2 TO THE  
SHARE PURCHASE AND OPTION AGREEMENT**

AMONG

**ELECTRA BATTERY MATERIALS CORPORATION  
(FORMERLY, FIRST COBALT CORP.)**

AND

**COBALT INDUSTRIES OF CANADA INC.**

AND

**COBALT PROJECTS INTERNATIONAL CORP.**

AND

**COBALTECH MINING INC.**

AND

**KUYA SILVER CORPORATION**

December 31, 2022

**AMENDMENT NO. 2 TO THE  
SHARE PURCHASE AND OPTION AGREEMENT**

**THIS AGREEMENT** made as of December 31, 2022.

**AMONG:**                    **KUYA SILVER CORPORATION.**, a duly constituted legal person under the laws of the Province of British Columbia (the “**Purchaser**”), AND **COBALTECH MINING INC.**, a duly constituted legal person under the laws of the Province of British Columbia, and a subsidiary of the Purchaser (the “**Target**”);

**AND:**                    **ELECTRA BATTERY MATERIALS CORPORATION (formerly, FIRST COBALT CORP.)**, a duly constituted legal person under the *Canada Business Corporations Act* (the “**Vendor**”), AND **COBALT INDUSTRIES OF CANADA INC.**, a duly constituted legal person under the laws of the Province of Ontario, and a wholly-owned subsidiary of the Vendor (“**Cobalt Industries**”) AND **COBALT PROJECTS INTERNATIONAL CORP.**, a duly constituted legal person under the laws of the Province of Ontario, and a wholly-owned subsidiary of the Vendor (“**Cobalt Projects**”, and together with Cobalt Industries, the “**Optionors**”)

**WHEREAS** the Purchaser, the Vendor, Cobalt Industries and the Target previously entered into a share purchase and option agreement dated February 26, 2021 (the “**Original Agreement**”);

**AND WHEREAS** pursuant to the terms of the Original Agreement, the Vendor agreed to sell to the Purchaser, and the Purchaser has agreed to purchase from the Vendor, the Purchased Shares;

**AND WHEREAS** concurrently with completion of the Transaction, Cobalt Industries granted the Purchaser a right to acquire up to a seventy percent (70%) interest in and to the Remaining Assets upon the terms and conditions set forth in the Original Agreement;

**AND WHEREAS** the Transaction was completed effective March 1, 2021, and ownership of the Purchased Shares was transferred to the Purchaser;

**AND WHEREAS** the Purchaser, the Target, the Vendor, Cobalt Industries, Cobalt Camp Ontario Holdings Corp., and RJK Explorations Ltd. (“**RJK**”) are parties to a letter agreement dated February 24, 2022 (the “**RJK Agreement**”), under which Cobalt Industries transferred to RJK all of Cobalt Industries’ right, title, and interest in certain mineral properties in exchange for RJK permanently and irrevocably relinquishing all of its right, title, and interest in and to certain other mineral properties in order to facilitate the exploration and development of the Remaining Assets by the Purchaser and Cobalt Industries;

**AND WHEREAS** the RJK Agreement constitutes an amendment to the Original Agreement, in that the RJK Agreement modifies the list of Remaining Assets set out in Schedule B to the Original Agreement (as amended, the “**Existing Agreement**”);

**AND WHEREAS** the Purchaser and the Vendor now desire to amend the Existing Agreement to provide for the accelerated exercise of the Option and to eliminate certain additional and ongoing rights granted to the Vendor pursuant to the Existing Agreement;

**AND WHEREAS** in connection with the exercise of the Option, the Purchaser has agreed to enter into the royalty agreement attached as Appendix “A” hereto (the “**Royalty Agreement**”), pursuant to which it will grant the Optionors a two percent (2.0%) royalty on net smelter returns from commercial production derived from the Remaining Assets;

**NOW THEREFORE** this Agreement witnesseth that for good and valuable consideration and the mutual covenants and agreements set out below, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto do hereby covenant and agree with each other as follows:

1. **INTERPRETATION**

1.1 The provisions of Article 1 of the Existing Agreement shall also apply to this Agreement and references to Articles and Schedules are to articles and schedules of the Existing Agreement unless otherwise specified.

2. **AMENDMENTS**

With effect from the date of this Agreement:

2.1 Reference to the parties set out in the Existing Agreement are amended by inserting the following after “AND COBALT INDUSTRIES OF CANADA INC., a duly constituted legal person the laws of the Province of Ontario, and a wholly-owned subsidiary of the Vendor”:

*“(“Cobalt Industries”) AND COBALT PROJECTS INTERNATIONAL CORP., a duly constituted legal person under the laws of the Province of Ontario, and a wholly-owned subsidiary of the Vendor (“Cobalt Projects”, and together with Cobalt Industries, the “Optionors”)” and removing the following: “(the “Optionor”).”*

2.2 The recitals to the Existing Agreement are amended by:

2.2.1 deleting the words “held by the Optionor, a wholly-owned subsidiary of the Vendor” and replacing them with the words “held by the Optionors, each of which is a wholly-owned subsidiary of the Vendor”; and

2.2.2 deleting the words “the Optionor has agreed to grant the Purchaser (or such other affiliate of the Purchaser as directed by the Purchaser) a right to acquire up to a seventy percent (70%) interest” and replacing them with the words “the Optionors have agreed to grant the Purchaser (or such affiliate of the Purchaser as directed by the Purchaser) a right to acquire a one hundred percent (100%) interest.”

2.3 Section 1.01 of the Existing Agreement is amended to:

2.3.1 delete the definitions of “Analysis”, “Associate,” “Back-In Right”, “Back-In Right Exercise Notice”, “Back-In Right Notice”, “Back-In Right Option Period,” “Joint Venture Agreement,” and “Primary Cobalt Deposit”;

2.3.2 delete and replace the definitions of “Earn-In Period”, “Option Period,” “Optionor,” and “Remaining Assets” with the following definitions, respectively:

*“**Earn-In Period**” means the period beginning on the date that the Purchaser makes the Initial Earn-In Payment and ending at the Exercise Time.*

*“**Option Period**” means the period commencing on the Closing Date and ending on January 31, 2023, or such later date as the parties may agree in writing, unless terminated earlier by the exercise of the Option in full by the Purchaser or as otherwise provided in this Agreement.*

*“**Optionors**” means Cobalt Industries and Cobalt Projects.*

*“**Remaining Assets**” means a series of mineral concessions and patents located in the vicinity of the Kerr Assets as set out in Schedule B, and includes all associated technical data and exploration results held by the Optionors and the Vendor.*

2.3.3 include the following additional definitions:

*“**CSH**” means Canadian Silver Hunter Inc.*

*“**CSH Agreement**” means the Mining Option Agreement, dated as of January 3, 2017, between CSH and Cobalt Projects, an Affiliate of the Vendor.*

*“**CSH Dispute**” means the dispute between the Vendor and Cobalt Projects, on one hand, and CSH, on the other hand, described in the CSH Dispute Disclosure.*

*“**CSH Dispute Conclusion**” has the meaning given to that term in Section 7.03.*

*“**CSH Dispute Disclosure**” means the information contained in Schedule “D” to this Agreement.*

*“**CSH Properties**” means the mineral properties identified in the CSH Dispute Disclosure.*

*“**CSH Properties Interest**” has the meaning given to that term in Section 5.01(y).*

*“**Cobalt Industries**” means Cobalt Industries of Canada Inc.*

*“**Cobalt Projects**” means Cobalt Projects International Corp.*

*“**Exercise Representations and Warranties**” means those representations and warranties made by the Vendor for the benefit of the Purchaser that are set out in Sections (a), (b), (g), and (m) through (y) of Section 5.01, but in*

each case, only to the extent that such representation or warranty relates to the Optionors or the Remaining Assets.

**“Exercise Time”** has the meaning given to that term in Section 3.01.

**“Royalty”** means a two percent (2.0%) royalty on net smelter returns from commercial production derived from the Remaining Assets, which will be granted to the Optionors upon exercise of the Option pursuant to the Royalty Agreement.

**“Royalty Agreement”** means the agreement, attached as Schedule C, pursuant to which the Purchaser will grant the Royalty to the Optionors.

- 2.4 Section 1.04 of the Existing Agreement is amended to add:
- 2.4.1 the Royalty Agreement, attached as Appendix “A” hereto, as Schedule “C” to the Existing Agreement; and
- 2.4.2 the CSH Dispute Disclosure, attached as Appendix “B” hereto, as Schedule “D” to the Existing Agreement.
- 2.5 Section 3.01 of the Existing Agreement is deleted in its entirety and replaced with the following new Section 3.01:

*“The Optionors hereby grant to the Purchaser, at the Closing Time, the Option to acquire a one hundred percent (100%) interest in and to the Remaining Assets, subject to the Royalty, which Option is exercisable by completing the following payments or share issuances, as applicable:*

- (a) *On or prior to the Earn-In Date, the Purchaser may elect to initiate the Option by making a cash payment of \$1,000,000 or issuing the equivalent value in Kuya Shares at the Earn-In VWAP prior to such payment (the “Initial Earn-In Payment”), the receipt of which on September 1, 2021 in the form of 671,141 Kuya Shares (issued to the Vendor at the direction of Cobalt Industries) is hereby acknowledged by the Optionors.*
- (b) *On or prior to January 31, 2023, the Purchaser having completed a cash payment of \$1,000,000 to the Optionors (with \$250,000 being paid to Cobalt Industries and \$750,000 being paid to Cobalt Projects), or having issued to the Optionors the equivalent value of Kuya Shares at an issuance price equivalent to the Earn-In VWAP prior to such issuance (with 25% of such Kuya Shares being issued to Cobalt Industries and 75% being issued to Cobalt Projects), and having executed and delivered the Royalty Agreement to the Optionors.*

*Upon the completion of aggregate cash payments of \$2,000,000 to the Optionors (with \$500,000 being paid to Cobalt Industries and \$1,500,000 being paid to Cobalt Projects), or the issuance of the equivalent value in Kuya Shares as per Section 3.01 (a) and (b) (with 25% of such Kuya Shares being issued to Cobalt Industries and 75% being issued to Cobalt Projects), or any combination thereof, and the execution and delivery of the Royalty Agreement (the “Exercise Time”), within the timeframes prescribed above,*

*the Purchaser will be deemed to have exercised the Option in full and will hold an undivided one-hundred percent (100%) legal and beneficial interest in and to the Remaining Assets, subject to the CSH Dispute and the Royalty.”*

- 2.6 Sections 3.02, 3.03, 3.07, 3.08 and 8.01 of the Existing Agreement are deleted in their entirety.
- 2.7 Sections 3.04 and 3.06 of the Existing Agreement are amended by replacing each instance of the word “Optionor” with “Optionors” and effecting such further minor changes to grammar, sentence structure, and formatting as are necessary for Sections 3.04 and 3.06 to be understood as setting out the rights and obligations of the Purchaser, on the one hand, and the two Optionors, on the other hand, in respect of the Remaining Assets during the Earn-In Period.
- 2.8 Section 5.01 of the Existing Agreement is amended by:
- 2.8.1 deleting the heading “With respect to the Target and the Optionor” and replacing it with the heading “With respect to the Target and the Optionors”;
- 2.8.2 in the Exercise Representations and Warranties, replacing each instance of the word “Optionor” with “Optionors” and effecting such further minor changes to grammar, sentence structure, and formatting as are necessary for the Exercise Representations and Warranties to be understood as applying to both Optionors;
- 2.8.3 inserting the following clause at the beginning of paragraphs (m), (q), (r), and (t):  
*“Except as disclosed in the CSH Dispute Disclosure,”*
- 2.8.4 deleting the words “Kerr Assets or the” from paragraph (n);
- 2.8.5 adding a new paragraph (x), with the following text:  
*“The board of directors of the Vendor, and the board of directors of each of the Optionors, have duly approved the transfer of the Remaining Assets to the Purchaser upon exercise of the Option in accordance with their respective constating documents, and such transfers will not conflict with or result in a breach of any covenants or agreements contained in, or constitute a default under, or result in the creation of any Encumbrance on any of the Remaining Assets under, the provisions of their respective constating documents or any shareholders’ or directors’ resolution or any contract to which the Vendor or either Optionor is a party or by which the Vendor or either Optionor is bound, and does not contravene any applicable Laws.”*
- 2.8.6 adding a new paragraph (y), with the following text:  
*“The Vendor and the Optionors have provided the Purchaser with all material information within their possession or control relating to the CSH Dispute, including, without limitation, (i) all information and documents relating to the earning of any legal or beneficial interest in the CSH*

*Properties by the Vendor, Cobalt Projects, or any of their Affiliates (the “CSH Properties Interest”), (ii) all correspondence with CSH or any third party (including any agent of or advisor to CSH) relating to the CSH Dispute, (iii) all reports, presentations, plans, and memoranda relating to the CSH Dispute prepared by, on behalf of, or for the Vendor, Cobalt Projects, or any of their Affiliates, and (iv) all claims, submissions, responses, requests, and proposals made by any party to any formal proceedings for the resolution of the CSH Dispute.”*

2.8.7 deleting the final sentence and replacing it with the following:

*“Each of the representations and warranties contained in this Section 5.01 will be true and accurate at the Closing Time as if made at and as of such time, but also, each of the Exercise Representations and Warranties will be true and accurate at the Exercise Time as if made at and as of such time.”*

2.9 Section 7.01 of the Existing Agreement is amended by replacing each instance of the word “Optionor” with “Optionors” and effecting such further minor changes to grammar, sentence structure, and formatting as are necessary for the applicable covenants of the Vendor to be understood as applying to both Optionors.

2.10 Article 7 of the Existing Agreement is further amended by adding the following new Section 7.03:

*“7.03 CSH Dispute*

*(a) The Vendor and Cobalt Projects, on one hand, and the Purchaser, on the other hand, acknowledge and agree that:*

*(i) their shared intention is for the CSH Properties Interest (if any) to be transferred to the Purchaser, as part of the Remaining Assets, following the exercise of the Option;*

*(ii) as of the date of this Agreement, the status of the CSH Agreement is contested, and in any case, Cobalt Projects does not have the right under the CSH Agreement to transfer the CSH Properties Interest (if any) to the Purchaser; and*

*(iii) from and after the Exercise Time, the Purchaser will be responsible for prosecuting, managing, defending, and resolving the CSH Dispute, and for all related costs and expenses, including legal and arbitration fees, unless the CSH Dispute Conclusion (as that term is defined below) has already occurred.*

*(b) At the Exercise Time, if the CSH Dispute Conclusion has not already occurred, each of the Vendor and Cobalt Projects shall be deemed to have appointed, and does hereby appoint, the Purchaser (with full power of delegation) as its agent and lawful attorney for the purpose of prosecuting, managing, defending, and resolving the CSH Dispute, and any action taken by the attorney in relation to the CSH Dispute, and any document*

*executed and delivered by the attorney in relation to the CSH Dispute, shall be as valid and effectual, for all purposes, as though it had been taken, executed, or delivered by the Vendor or Cobalt Projects, as applicable.*

- (c) *For the avoidance of doubt, each of the Vendor and Cobalt Projects acknowledges and agrees that any power of attorney granted or created under this Section 7.03:*
  - (i) *has been granted for valuable consideration;*
  - (ii) *is coupled with an interest, and in particular, but without limitation, secures a benefit to the attorney;*
  - (iii) *is irrevocable;*
  - (iv) *is not subject to the Substitute Decisions Act (Ontario), and survives any loss of capacity of the Vendor or Cobalt Projects;*
  - (v) *does not give rise to any fiduciary duty or obligation of trust on the part of the attorney (any such duties or obligations being expressly disclaimed by the attorney);*
  - (vi) *may be exercised by the attorney without prior notice, consent, or direction to or from the Vendor or Cobalt Projects, it being expressly understood and agreed that such power is to be exercised in such manner as in the bona fide opinion of the attorney best benefits the attorney;*
  - (vii) *empowers the attorney to do anything with respect to the CSH Dispute, including without limitation representing and acting on behalf of the Vendor or Cobalt Projects before any arbitral tribunal, court, or other Governmental Authority, and making or accepting any settlement offer on behalf of the Vendor or Cobalt Projects; and*
  - (viii) *shall be deemed to follow the CSH Agreement.*
- (d) *Each of the Vendor and Cobalt Projects further covenants not to in any event or upon any grounds deny or purport to revoke any power of attorney granted or created under this Section 7.03.*
- (e) *Each of the Vendor and Cobalt Projects shall, upon request by the Purchaser, execute any document reasonably required by the Purchaser to evidence or exercise any power of attorney granted or created under this Section 7.03, or to satisfy any third party that the Purchaser has the legal authority to prosecute, manage, defend, and resolve the CSH Dispute for and on behalf of the Vendor and Cobalt Projects. If the Purchaser reasonably believes that any power of attorney granted or created under this Section 7.03 is insufficient or ineffective for the purposes of prosecuting, managing, defending, and resolving the CSH Dispute, each*



*of the Vendor and Cobalt Projects shall, upon request by the Purchaser, assign to the Purchaser the sole right to prosecute, manage, defend, and resolve the CSH Dispute, and execute any document reasonably required by the Purchaser to evidence or exercise this right or satisfy any third party that the Purchaser has the legal authority to prosecute, manage, defend, and resolve the CSH Dispute.*

- (f) For the purposes of this Section 7.03, the CSH Dispute shall be deemed to be resolved when the following conditions are met (the “CSH Dispute Conclusion”):*

  - i. the CSH Properties Interest is finally determined (whether by arbitration, court proceedings, settlement agreement, or otherwise) and binding on both Cobalt Projects and CSH; and*
  - ii. Cobalt Projects has the right under the CSH Agreement to transfer and assign the CSH Properties Interest to the Purchaser, or it is finally determined (whether by arbitration, court proceedings, settlement agreement, or otherwise) that Cobalt Projects has no legal or beneficial interest in the CSH Properties.*
- (g) The Vendor and Cobalt Projects, on one hand, and the Purchaser, on the other hand, acknowledge and agree it is possible that the CSH Dispute Conclusion will occur before the Exercise Time, by way of a settlement agreement, purchase agreement, or similar instrument among Cobalt Projects, CSH, and any other relevant parties, depending on the outcome of discussions with CSH during the Option Period. Cobalt Projects shall not enter into any settlement agreement, purchase agreement, or similar instrument in relation to the CSH Dispute, or agree with CSH (in principle or otherwise) on the key terms of any such agreement or instrument, whether before or after the Exercise Time, without the prior written approval of the Purchaser, such approval not to be unreasonably withheld.*
- (h) If the CSH Dispute Conclusion has not already occurred by the Exercise Time, then (i) from the Exercise Time until the CSH Dispute Conclusion, Cobalt Projects shall hold the CSH Properties Interest in trust for the Purchaser, (ii) the CSH Dispute Conclusion, the CSH Properties Interest (if any) shall automatically transfer to the Purchaser, and (iii) following the CSH Dispute Conclusion, the Vendor and Cobalt Projects shall take any actions reasonably requested by the Purchaser to evidence, register, record, or give effect to such transfer.*
- (i) If after the Exercise Time the Vendor or Cobalt Projects receives or becomes aware of any information relating to CSH, the CSH Properties, the CSH Properties Interest, or the CSH Dispute not previously disclosed to the Purchaser pursuant to Section 5.01(y) above, the Vendor or Cobalt Projects (as applicable) shall promptly provide such information to the Purchaser, regardless of when the CSH Dispute Conclusion occurs.*
- (j) If the CSH Dispute Conclusion has not already occurred by the Exercise Time, the Purchaser may, at any time and in its sole discretion, abandon*

*or discontinue the CSH Dispute. If the Purchaser decides to abandon or discontinue the CSH Dispute, it shall promptly notify the Vendor and Cobalt Projects.*

*(k) If the Purchaser exercises the Option, the provisions of this Section 7.03 shall survive the exercise of the Option and remain in full force and effect for as long as they are applicable.”*

2.11 Section 9.02(c) of the Existing Agreement is amended by replacing each instance of the word “Optionor” with “Optionors” and effecting such further minor changes to grammar, sentence structure, and formatting as are necessary for that condition in favour of the Purchaser to be understood as applying to both Optionors.

2.12 Section 10.01 of the Existing Agreement is amended by:

2.12.1 replacing the words “except as provided in (b) and (c) of this section” with the words “except as provided in (b), (c), and (d) of this section”;

2.12.2 adding a new paragraph (d), with the following text:

*“any claim that is based upon or relates to any breach of any of the Exercise Representations and Warranties may be made or brought by the Purchaser at any time prior to the date that is two (2) years following the Exercise Time”;*

2.12.3 in the paragraph that follows the list, replacing the words “make any claim permitted by (b) or (c) of this section” with the words “make any claim permitted by (b), (c), or (d) of this section”; and

2.12.4 effecting such further minor changes to grammar, sentence structure, and formatting as are necessary for the new paragraph (d) to be understood as an addition to the list of provisions regarding the survival of representations and warranties in the Existing Agreement.

2.13 Section 13.04 of the Existing Agreement is amended by adding the following paragraph:

*“Without limiting the generality of the preceding paragraph, as soon as practicable following the Exercise Time, the Vendor and the Optionors shall deliver to the Purchaser evidence of transfer of the Remaining Assets (except for the CSH Properties, if the CSH Dispute Conclusion has not already occurred by the Exercise Time) to the Purchaser using the Mining Lands Administration System for the Province of Ontario, and shall take any other actions reasonably requested by the Purchaser to ensure that title to the Remaining Assets (except for the CSH Properties, if the CSH Dispute Conclusion has not already occurred by the Exercise Time) is transferred to, and registered or recorded in the name of, the Purchaser, in accordance with the Laws.”*

- 2.14 Section 13.10 of the Existing Agreement is deleted in its entirety and replaced with the following new Section 13.10:

*“The Purchaser shall have the right to assign or transfer this Agreement (in whole or part) to an Affiliate; provided, however, that the Purchaser may not assign or transfer its obligations hereunder to issue Kuya Shares. Prior to the Exercise Time, the Purchaser shall have the right to assign or transfer its interest in the Remaining Assets (in whole only) to an Affiliate. From and after the Exercise Time, there shall be no restrictions hereunder on the Purchaser’s ability to assign or transfer its interest in the Remaining Assets. No assignment or transfer of this Agreement (or the Remaining Assets, prior to the Exercise Time) by the Purchaser to an Affiliate under this Section 13.10 shall be valid unless the transferee has agreed in writing with the Vendor in advance to assume and be bound by the applicable terms of this Agreement, in which case the Purchaser shall be released from the obligations assumed by the Affiliate. Except as contemplated by this Section 13.10, neither Party may assign or transfer any interest in this Agreement without the prior consent of the other Party hereto.”*

- 2.15 The Existing Agreement is amended by replacing each instance of the word “Vendors ” with “Vendor’s.”

### 3. **CANADIAN SILVER HUNTER INC.**

- 3.1 The Purchaser acknowledges the existence of the CSH Dispute.
- 3.2 The Purchaser further acknowledges that (i) upon the exercise of the Option, it will acquire no greater interest in the CSH Properties than held by Cobalt Projects at the Exercise Time, and (ii) from and after the Exercise Time, if the CSH Dispute Conclusion has not already occurred by the Exercise Time, it will be responsible for prosecuting, managing, defending, and resolving the CSH Dispute, and for all related costs and expenses, including legal and arbitration fees.

### 4. **COBALT PROJECTS**

- 4.1 Upon the effectiveness of this Agreement, Cobalt Projects shall (i) assume the applicable duties, obligations, indebtedness, liabilities, covenants, and undertakings set out in, (ii) be bound by the applicable terms and conditions of, and (iii) become a party to, the Existing Agreement, as if it were an original signatory to the Existing Agreement.
- 4.2 Cobalt Projects hereby:
- 4.2.1 affirms and makes as of the date hereof all representations and warranties made by the Vendor in the Existing Agreement that relate in whole or part to the CSH Properties;
- 4.2.2 affirms and adopts all of the covenants of Cobalt Industries contained in the Existing Agreement, as amended by this Agreement, to the extent that such covenants relate to the CSH Properties, and covenants to abide thereby until

the satisfaction in full of Optionors' obligations under the Existing Agreement; and

4.2.3 represents and warrants that (i) it has full power, authority and legal right to enter into this Agreement and to perform all its respective duties, obligations, indebtedness, liabilities, covenants and undertakings hereunder, (ii) this Agreement has been duly executed and delivered by Cobalt Projects, and this Agreement constitutes the legal, valid and binding obligation of Cobalt Projects enforceable in accordance with its terms, (iii) the execution, delivery and performance of this Agreement (a) are within Cobalt Projects' corporate or company powers, as applicable, have been duly authorized by all necessary corporate or company action, as applicable, are not in contravention of the terms of Cobalt Projects' organizational documents or of any material agreement or undertaking to which Cobalt Projects is a party or by which it is bound, (b) will not conflict with or violate any applicable law, or any applicable judgment, order or decree of any Governmental Authority and (c) will not require the consent, authorization or approval of any Governmental Authority, or any other Person, except those consents, authorizations or approvals the failure of which to obtain would not be reasonably likely to have a Material Adverse Effect.

## 5. **DEBT SETTLEMENT**

The Parties acknowledge and agree that the Purchaser owes the Vendor the amount of \$150,000 in connection with the Vendor making \$200,000 of "flow-through eligible" expenditures on the Remaining Assets over and above the amount of such expenditures required to be made by the Vendor pursuant to Section 3.05 of the Existing Agreement (the "2021 Debt"). No later than thirty (30) days after the Exercise Time or the expiry of the Option Period, whichever occurs first, the Purchaser shall satisfy the 2021 Debt in full by, at its option, (i) making a cash payment of \$150,000 to the Vendor or (ii) issuing to the Vendor the equivalent value in Kuya Shares at the Earn-In VWAP prior to such payment. The Vendor agrees that, upon receipt of the cash payment or the equivalent value in Kuya Shares, the Purchaser shall have no remaining liabilities or obligations of any kind in respect of the 2021 Debt.

## 6. **CONTINUATION**

Except as varied by the terms of this Agreement, the Existing Agreement will remain in full force and effect. Any reference in the Existing Agreement to the "Agreement" (as defined in the Existing Agreement) or to any provision of the Existing Agreement will be construed as a reference to the Existing Agreement, or that provision, as amended by this Agreement.

## 7. **INCORPORATION OF TERMS**

The provisions of Article 13 of the Existing Agreement shall apply to this Agreement as though those clauses were set out in this Agreement, but as if references in those clauses to the Existing Agreement were references to this Agreement.

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

**KUYA SILVER CORPORATION**

By: (signed) "David Stein"

Name: David Stein

Title: President

**ELECTRA BATTERY MATERIALS CORPORATION**

By: (signed) "Trent Mell"

Name: Trent Mell

Title: Chief Executive Officer

**COBALT INDUSTRIES OF CANADA INC.**

By: (signed) "Trent Mell"

Name: Trent Mell

Title: Director

**COBALT PROJECTS INTERNATIONAL CORP.**

By: (signed) "Trent Mell"

Name: Trent Mell

Title: Director

**COBALTECH MINING INC.**

By: (signed) "David Stein"

Name: David Stein

Title: Director

**APPENDIX “A”**  
to Amendment No. 2 to the Share Purchase and Option Agreement

**ROYALTY AGREEMENT**

**THIS AGREEMENT** made as of [x], 2023 (this “**Agreement**”).

**AMONG:**

**KUYA SILVER CORPORATION**, a corporation incorporated under the laws of the Province of British Columbia

(the “**Royalty Payor**”)

**AND:**

**COBALT INDUSTRIES OF CANADA INC.**, a corporation incorporated under the laws of the Province of Ontario

(“**Cobalt Industries**”)

**AND:**

**COBALT PROJECTS INTERNATIONAL CORP.**, a corporation incorporated under the laws of the Province of Ontario

(“**Cobalt Projects**,” and together with Cobalt Industries, the “**Royalty Holders**”)

**WHEREAS** in consideration of the amendment of the Existing Agreement and the Consideration Payment, the Royalty Payor has agreed to grant to the Royalty Holders a royalty interest in the Remaining Assets in an amount equal to 2.0% of the Net Smelter Returns in accordance with the provisions of this Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that the Parties covenant and agree as follows:

**ARTICLE 1**  
**INTERPRETATION**

**1.1 Definitions**

In this Agreement, unless otherwise provided:

“**Affiliate**” means any person, partnership, joint venture, corporation or other form of enterprise which directly or indirectly controls, is controlled by, or is under common control

with, a Party. For the purposes of the preceding sentence, “**control**” means possession, directly or indirectly, of the power to direct or cause direction of management and policies through ownership of voting securities, contract, voting trust or otherwise;

“**Allowable Deductions**” mean the aggregate of the following charges (to the extent that they are not deducted in calculating Receipts):

- (a) charges imposed by a smelter, refiner, processor, purchaser or other recipient of Minerals for smelting, refining or processing Minerals, but excluding any and all charges and costs, if any, related to the Royalty Payor’s mills or other processing plants constructed for the purpose of milling or processing Minerals, in whole or in part;
- (b) penalty substance charges, treatment charges, assaying charges, price participation charges, sampling charges and any other charges, penalties or deductions imposed, charged or levied by a smelter, refiner, processor, purchaser or other recipient of Minerals for smelting, refining, or processing Minerals, but excluding any and all charges and costs, if any, of or related to the Royalty Payor’s mills or other processing plants constructed for the purpose of milling or processing Minerals, in whole or in part; and
- (c) charges and costs, if any, for transportation and insurance of Minerals from the Royalty Payor’s final mill or other final processing plant to places where such Minerals are smelted, refined and/or Sold or otherwise disposed of,

provided that if any Minerals are sold or otherwise disposed of by the Royalty Payor in circumstances in which the consideration received by the Royalty Payor is not negotiated at arm’s length, then for purposes of calculating the Net Smelter Returns, the Royalty Payor shall be deemed to have received consideration equal to the amount which would have been received had such sale or other disposition been negotiated at arm’s length;

“**Business Day**” means a day, other than a Saturday or Sunday, on which banks are generally open for business in the City of Toronto, Ontario;

“**Commencement Date**” means the date of this Agreement;

“**Confidential Information**” has the meaning set forth in Section 6.1;

“**Consideration Payment**” means a one-time cash payment of \$1.00;

“**Existing Agreement**” means the share purchase and option agreement entered into between Electra Battery Materials Corporation, Cobalt Industries, CobalTech Mining Inc., and the Royalty Payor dated February 26, 2021, as amended on February 24, 2022;

“**Minerals**” means all marketable metal-bearing material in whatever form or state that is mined, extracted, removed, produced or otherwise recovered from the Property, whether in the form of ore, concentrates, doré, powders, dusts, Refined Metal or any other beneficiated or derivative product thereof, and including any such material derived from any processing

or reprocessing of any tailings, waste rock or other waste products originally derived from the Property;

“**Net Smelter Returns**” means the Receipts less the Allowable Deductions;

“**Party**” or “**Parties**” means one or more of the parties to this Agreement;

“**Person**” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof;

“**Property**” means those mineral dispositions located in the Province of Ontario and held by the Royalty Payor, as described in Appendix “A”, and any other form of successor or substitute therefor. If it shall be determined by the Royalty Payor, by exploration or mining, that any mine extension that is located on the Property should be expanded over property that is contiguous to the Property, then in such event, “**Property**” shall include the contiguous property on which the expansion is situated;

“**Receipts**” means the gross proceeds received by or payable to or for the benefit of the Royalty Payor or an Affiliate from the Sale or other disposition of Minerals to arm’s-length Persons;

“**Refined Metal**” means gold, silver, cobalt, lead, copper, zinc, platinum group or other marketable metals produced from Minerals and refined to standards meeting or exceeding commercial standards for the sale of such refined metals;

“**Remaining Assets**” has the meaning ascribed to such term by the Original Agreement;

“**Royalty**” means 2.0% of Net Smelter Returns, subject to adjustment as provided herein;

“**Sale**” means the transfer of title to Minerals by or on behalf of the Royalty Payor or any Affiliate of the Royalty Payor to an arm’s-length Person and includes a deemed transfer of title to Minerals transported off the Property that the Royalty Payor elects to have credited to or held for its account by a smelter, refiner or broker, and “**Sold**” means subject to a Sale; and

“**Transfer**” means to transfer, sell, assign or dispose of all or part of an interest.

## **1.2 Governing Law**

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

## **1.3 Severability**

If any one or more of the provisions contained in this Agreement is held to be invalid, illegal or unenforceable in any respect under the laws of any jurisdiction, the validity, legality and enforceability of such provision will not in any way be affected or impaired thereby under



the laws of any other jurisdiction and the validity, legality and enforceability of the remaining provisions contained herein will not in any way be affected or impaired thereby.

#### **1.4 Calculation of Time**

If any time period set forth in this Agreement ends on a day of the week that is not a Business Day, then notwithstanding any other provision of this Agreement, such period will be extended until the end of the next following day which is a Business Day.

#### **1.5 Headings**

The headings to the articles and sections of this Agreement are inserted for convenience only and will not affect the construction hereof.

### **ARTICLE 2 ROYALTY**

#### **2.1 Royalty**

The Royalty Payor has agreed to pay the Royalty, commencing as at and from the Commencement Date and in perpetuity thereafter, to the Royalty Holders (with 25% of any such payment being paid to Cobalt Industries and 75% being paid to Cobalt Projects), on the terms and conditions specified in this Agreement. For and in consideration of the Royalty, the Royalty Holders have agreed to pay the Consideration Payment, on the Commencement Date, to the Royalty Payor. For the avoidance of doubt, the Royalty Holders shall share 2.0% of Net Smelter Returns, to be divided between them in accordance with the percentages set out in this Section 2.1.

#### **2.2 Interest in Land**

The Parties intend that the Royalty, to the extent permissible under applicable laws, constitutes an interest in the Property and, accordingly agree that:

- (a) the Royalty will run with the Property, and every interest therein; and
- (b) the Royalty Payor will upon request sign and deliver to the Royalty Holders, and the Royalty Holders may register or otherwise record against title to the Property, the form of notice or other document or documents as the Royalty Holders may reasonably request to give notice of the existence of the Royalty to third Persons, to secure payment of the Royalty and protect the Royalty Holders' rights to receive the Royalty as contemplated herein.

### **ARTICLE 3 OPERATION OF THE PROPERTY**

#### **3.1 Royalty Payor to Determine Operations**

The Royalty Payor will have complete discretion concerning the nature, timing and extent of all exploration, development, mining and other operations conducted on or for the benefit of the Property and may suspend operations and production on the Property at any time it

considers prudent or appropriate to do so. The Royalty Payor will owe the Royalty Holders no duty to explore, develop or mine the Property, or to do so at any rate or in any manner other than that which the Royalty Payor may determine in its sole and unfettered discretion.

### **3.2 Property Tenure**

Subject to Section 5.1 hereof, the Royalty Payor may abandon, surrender, allow to lapse, reduce the area of or otherwise deal with the Property as it may determine in its sole discretion.

## **ARTICLE 4 PAYMENTS**

### **4.1 Accrual of Payments Obligation**

The obligation to pay the Royalty shall accrue upon the Sale of Minerals. The Royalty for each calendar quarter will be calculated and paid within thirty days after the end of the calendar quarter. A statement setting forth the Receipts and Allowable Deduction calculations in sufficient detail to show the payment's derivation shall be submitted with the Royalty payment together with a statement showing in reasonable detail the quantities and grades of Minerals produced and Sold by the Royalty Payor in the preceding quarter, and if applicable, details with respect to Minerals the title to which has been transferred to an Affiliate of the Royalty Payor during such quarter. For the avoidance of doubt, if no Minerals are Sold during a calendar quarter, the Royalty Payor shall not be required to submit any statement in respect of such calendar quarter.

Subject to as hereinafter provided, all Royalty payments will be considered final and in full satisfaction of all obligations of the Royalty Payor with respect thereto unless within 180 days after receipt by the Royalty Holders of the statement the Royalty Holders deliver to the Royalty Payor a written notice describing and setting forth either: (i) a specific objection to the calculation of the Royalty payment; or (ii) a desire to conduct an audit. For a period of 180 days after the Royalty Payor's receipt of such notice, the Royalty Holders will have the right, upon reasonable notice and at a reasonable time, to direct that the Royalty Payor's accounts and records relating to the calculation of the Royalty in question be audited by the auditors or other representatives of the Royalty Holders. If such audit determines that there has been a deficiency or an excess in any Royalty payment made to the Royalty Holders, such deficiency or excess will be resolved by adjusting the next Royalty payment due hereunder. If there is a deficiency of more than 5% of the amount due, the Royalty Payor will pay the reasonable costs and expenses of such audit and if the deficiency is less than 5% of the amount due, such costs and expenses will be paid by the Royalty Holders. Failure on the part of the Royalty Holders to make claim against the Royalty Payor for adjustment in such 180-day period by delivery of a written notice will conclusively establish the correctness and sufficiency of the statement and Royalty payments for such period. Such limitation period shall not limit claims alleging acts of fraud or gross negligence on the part of the Royalty Payor.

## **4.2 Wire Transfer**

Payments hereunder will be made by wire transfer in good, immediately available funds, to such account or accounts as the Royalty Holders may designate pursuant to wire instructions provided by the Royalty Holders to the Royalty Payor not less than three Business Days prior to the dates upon which such payments are to be made.

## **4.3 Books**

The Royalty Payor shall keep true and accurate books and records of all of its operations and activities on the Property and under this Agreement, including the mining of Minerals and the treatment, processing, refining and transportation of Minerals.

# **ARTICLE 5 ASSIGNMENT**

## **5.1 Assignment by Royalty Payor**

The Royalty Payor shall have the right to Transfer all or any portion of its interest in the Property together with this Agreement provided that the Royalty Payor must deliver to the Royalty Holders, prior to any such Transfer coming into effect, a written agreement from the transferee, pursuant to which the transferee agrees to at all times be bound by this Agreement.

## **5.2 Assignment by Royalty Holders**

Each Royalty Holder shall have the right to Transfer all or any portion of its interest in the Royalty and/or this Agreement, provided that such Royalty Holder must deliver to the Royalty Payor prior written notice of such Transfer.

# **ARTICLE 6 MISCELLANEOUS**

## **6.1 Confidentiality**

All information, data, reports, records, feasibility studies and test results relating to the Property and the activities of the Royalty Payor or any other Person thereon and the terms and conditions of this Agreement, all of which will hereinafter be referred to as “**Confidential Information**”, will be treated by the Royalty Holders and their Affiliates as confidential and will not be disclosed to any Person who is not a party to this Agreement, except in the following circumstances:

- (a) the Royalty Holders or their Affiliates may disclose confidential information to their auditors, legal counsel, institutional lenders, brokers, underwriters and investment bankers, provided that such non-party users are advised of the confidential nature of the Confidential Information and undertake to maintain the confidentiality thereof and are strictly limited in their use of the Confidential Information to those purposes necessary for such non-party

users to perform the services for which they were retained by the Royalty Holders or their Affiliates;

- (b) the Royalty Holders or their Affiliates may disclose Confidential Information to prospective purchasers of the Royalty or an interest in this Agreement, provided that each such prospective purchaser first agrees in writing to hold such information confidential in accordance with this Section 6.1 and to use it exclusively for the purpose of evaluating the Royalty or an interest in this Agreement;
- (c) the Royalty Holders or their Affiliates may disclose Confidential Information where disclosure is necessary to comply with their respective disclosure obligations and requirements under any securities law, rules or regulations or stock exchange listing agreements, policies or requirements or as otherwise required by law or in relation to proposed credit arrangements, and the Royalty Payor agrees to provide to the Royalty Holders all such information as the Royalty Holders, acting reasonably, determines is necessary or desirable to fulfill the disclosure obligations and requirements of the Royalty Holders or their Affiliates under applicable securities laws; or
- (d) with the approval of the Royalty Payor.

Any Confidential Information that becomes publicly available by no act or omission in breach of this Section 6.1 will cease to be Confidential Information for the purposes of this Section 6.1.

## **6.2 No Partnership**

This Agreement is not intended to, and will not be deemed to, create any partnership relation between the Parties including without limitation, a joint venture, mining partnership or commercial partnership. The obligations and liabilities of the Parties will be several and not joint and neither Party will have or purport to have any authority hereunder to act for or to assume any obligations or responsibility on behalf of the other Party. Nothing herein contained will be deemed to constitute a Party the partner, agent, joint venturer or legal representative of the other Party. For the avoidance of doubt, nothing in this Section 6.2 shall affect the validity or status of any power of attorney granted or created by, in, or under any instrument other than this Agreement.

## **6.3 Notice**

Any notice, election, proposal, objection or other document required or permitted to be given hereunder will be in writing addressed to the Parties as follows:

Notices to the Royalty Payor will be given to the following address:

Kuya Silver Corporation  
Suite 200, 150 King Street West  
Toronto, Ontario, M5H 1J9

Attention: David Stein, Chief Executive Officer  
Email: [Redacted – Personal Information]

Notices to the Royalty Holders will be given to the following address:

Cobalt Industries of Canada Inc. and Cobalt Projects International Corp.  
c/o Electra Battery Materials Corporation  
Suite 602, 133 Richmond Street West  
Toronto, Ontario, M5H 2L3

Attention: Trent Mell, Chief Executive Officer  
Email: [Redacted – Personal Information]

All notices will be given by personal delivery, electronic delivery or prepaid registered mail, return receipt requested. All notices will be effective and will be deemed delivered as follows:

- (a) if by personal delivery, on the date of delivery if delivered during normal business hours, and, if not delivered during normal business hours, on the next Business Day following delivery;
- (b) if by electronic delivery, on the same Business Day as receipt of the facsimile or electronic delivery; and
- (c) if by mail, on the Business Day of actual receipt.

A Party may at any time change its address for future notices hereunder by notice in accordance with this Section 6.3.

#### **6.4 Further Assurances**

Each Party will, at the request of another Party and at the requesting Party's expense, execute all such documents and take all such actions as may be reasonably required to effect the purposes and intent of this Agreement.

#### **6.5 Entire Agreement**

Except for the Existing Agreement, as amended, this Agreement constitutes the entire agreement of the Parties with respect to the Royalty, all previous agreements and promises in respect thereto being hereby expressly rescinded and replaced hereby. No modification or alteration of this agreement will be effective unless in writing executed subsequent to the date hereof by both Parties. No prior written or contemporaneous oral promises, representations or agreements in relation to the subject matter herein are binding upon the Parties. There are no implied covenants contained herein.

#### **6.6 No Waivers**

No waiver of or with respect to any term or condition of this Agreement will be effective unless it is in writing and signed by the waiving Party, and then such waiver will be effective

only in the specific instance and for the purpose of which given. No course of dealing among the Parties, nor any failure to exercise, nor any delay in exercising, any right, power, or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any specific waiver of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

#### **6.7 Time of the Essence**

Time is of the essence in the performance of any and all of the obligations of the Parties, including without limitation, the payment of monies.

#### **6.8 Counterparts**

This Agreement may be executed in multiple counterparts, each of which will constitute an original, but all of which together will constitute one and the same instrument, and may be signed and accepted by facsimile or PDF transmission.

#### **6.9 Parties in Interest**

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

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

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

**KUYA SILVER CORPORATION**

By: \_\_\_\_\_  
Name: David Stein  
Title: President

**COBALT INDUSTRIES OF  
CANADA INC.**

By: \_\_\_\_\_  
Name: Trent Mell  
Title: Director

**COBALT PROJECTS  
INTERNATIONAL CORP.**

By: \_\_\_\_\_  
Name: Trent Mell  
Title: Director

**APPENDIX “B”**

*[Redacted – Commercially Sensitive Information]*