

THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW NO. 33/2022

Being a By-law to Enter into a Restrictive Covenant and Noise and Vibration Acknowledgment and Easement Agreement with Cameco Corporation and Cameco Property Holdings Inc. to Conclude the Cancellation of the Choate Street Extension.

WHEREAS the Municipal Act, 2001, Section 9 provides in part that a Municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS Council at their Committee of the Whole meeting held on April 19, 2022 considered Staff Report WE-13-22 regarding Choate Street Extension Cancellation;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE ENACTS AS FOLLOWS:

1. THAT the Mayor and Clerk are hereby authorized to execute on behalf of the Corporation of the Municipality of Port Hope a Termination of Road Construction Agreement with Cameco Corporation and Cameco Property Holdings Inc. with the terms and conditions as set out in Appendix "A" attached hereto comprising part of this By-law.
2. THAT the Mayor and Clerk are hereby authorized and directed to sign the said Agreement and any related documentation to carry out the purpose of this by-law.
3. THAT this By-law shall come into force the day it is finally passed

READ A FIRST, SECOND AND THIRD TIME and finally passed on the 3rd day of May, 2022.

Bob Sanderson, Mayor

Brian Gilmer, Clerk

**RESTRICTIVE COVENANT AND
NOISE AND VIBRATION ACKNOWLEDGMENT
AND EASEMENT AGREEMENT**

THIS AGREEMENT is made as of the ■ day of ■, 2022.

B E T W E E N:

**THE CORPORATION OF THE MUNICIPALITY OF PORT
HOPE**

(hereinafter referred to as the “**Owner**”)

OF THE FIRST PART

- and -

**CAMECO CORPORATION and CAMECO PROPERTY
HOLDINGS INC.**

(hereinafter collectively referred to as “**Cameco**”)

OF THE SECOND PART

RECITALS

1. Pursuant to the terms of certain land arrangements between the Owner and Cameco, the Owner agreed to grant in favour of Cameco (i) the Restrictive Covenants (as defined below); and (ii) a Noise and Vibration Easement (as defined below) as contemplated in this agreement (this “**Agreement**”).
2. The Owner is the registered and beneficial owner of the lands and premises more particularly described in Schedule “A” attached hereto (the “**Servient Lands**”)
3. Cameco is the registered and beneficial owner of the lands and premises in Port Hope more particularly described in Schedule “B” attached hereto (the “**Dominant Lands**”).

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the foregoing and the sum of One Dollar (\$1.00) now paid by Cameco to the Owner (the receipt and sufficiency of which is hereby acknowledged), the parties agree as follows:

1. **Recitals**: The recitals to this Agreement form a part of this Agreement.
2. **Restrictive Covenant**: The Owner hereby covenants and agrees with Cameco and its successors and assigns that the Servient Lands shall be subject to the following covenants and restrictions (the “**Restrictive Covenants**”), the burden of which shall run with the Servient Lands and every portion thereof and the benefit of which shall run with the Dominant Lands and every portion thereof:

- (a) The Owner shall not use the Servient Lands nor permit or suffer the Servient Lands to be used for the purposes of (i) any active public uses that permit or encourage the congregation or gathering of the public as further described below; (ii) a private residence or residences, condominium or other residential development; (iii) a day care; (iv) any institutional purposes; (v) any purpose which would have the effect of emitting or generating any material amounts of vibration or other subsurface movement; (vi) any purpose which would have the effect of limiting, restricting, interfering with or otherwise impacting the use of the Dominant Lands by Cameco; or (vii) any other sensitive use, including any other agricultural, institutional or residential use. It is acknowledged and agreed hereto, that it is the mutual intent of the parties to permit certain passive or transient activities on, along and across the Servient Lands but to restrict and limit those activities which would result in a congregation or gathering of the public. Therefore, notwithstanding the foregoing and for greater certainty, the Owner may use the Servient Lands for certain passive activities (such as dog walking, parking to access trails etc.), provided that such use does not permit or encourage active public use (such as the construction and/or operation of public amenities such as play structures, pavilions, washrooms or similar public attractions or buildings, excepting the dispersal of benches and picnic tables, together with any necessary and appropriate sun-shading infrastructure or vegetation on the Servient Lands which shall be permissible).
- (b) For greater certainty, if a Record of Site Condition is required under the *Environmental Protection Act* (Ontario), or if any similar requirement is triggered, for a change in use of the Servient Lands (or any part of the Servient Lands), such change in use shall be considered a sensitive use.

3. **Record of Site Condition and Indemnity** The Parties acknowledge and agree that, notwithstanding any future use of the Servient Lands, Cameco shall have no responsibility or liability with respect to the preparation or filing of a record of site condition under section 168.4 of the *Environmental Protection Act* (Ontario) (or any applicable amended or successor legislation) (the “RSC”). The Owner covenants and agrees that it shall indemnify and save harmless Cameco of and from any loss or liability whatsoever suffered by the Cameco directly or indirectly as a result of or arising out of any (i) change of use of the Servient Lands to a more sensitive use, (ii) requirement to complete an RSC or comply with any related certificate of property use, or (iii) findings of any environmental investigations, monitoring or sampling required in connection with an RSC, including but not limited to the discovery of any hazardous substances at, in, on or under the Servient Lands, whether prior to or after the filing of the RSC, and all claims, demands, costs and expenses in respect of any of the foregoing.

4. **Noise and Vibration Easement**: The Owner hereby grants to Cameco, for the purpose of benefitting the Dominant Lands, a permanent and perpetual easement (the “**Noise and Vibration Easement**”) over, under, along and upon the Servient Lands and every portion thereof for the purposes of discharging, emitting and releasing thereon or otherwise affecting the Servient Lands at any time during the day or night with noise, vibration, other sounds and emissions of every nature and kind whatsoever and howsoever arising from, out of, or in connection with any and all present and future business operations of Cameco upon the Dominant Lands and including, without limitation, all such facilities and operations present existing and all future renovations,

additions, expansions and other changes to such facilities and operations (individually and collectively, “**Cameco Operations**”), subject, in each case, to compliance with all applicable laws.

5. **Noise and Vibration Acknowledgement:** The Owner hereby acknowledges that Cameco Operations are conducted on the Dominant Lands and that the noise, vibration, other sounds and emissions of every nature and kind whatsoever and howsoever arising from, out of, or in connection with or incidental to such Cameco Operations shall not constitute a nuisance to the Owner provided that, in each case, the same is in compliance with all applicable laws.

6. **Term:** The term of the Restrictive Covenants shall commence on the date hereof and expire on the date that is five (5) years following the date on which the Dominant Lands are no longer used or intended to be used for industrial purposes. Notwithstanding the foregoing, in no event shall the term of the Restrictive Covenants exceed two hundred (200) years from the date hereof. The Noise and Vibration Easement is a permanent and perpetual easement commencing on the date hereof.

7. **Covenant to Run with Title:** The burden of the Restrictive Covenants and Noise and Vibration Easement shall be annexed to and run with and bind the Servient Lands and each and every part thereof and to the intent that the benefit of this covenant shall be annexed to, run with and benefit the Dominant Lands and each and every part, thereof.

8. **Registration on Title:** The Owner hereby consents to the registration of this Agreement or notice thereof by Cameco against title to the Servient Lands and agrees to execute any further or other documents which may be required by Cameco to effect such registration.

9. **Headings:** Section headings are not to be considered part of this Agreement and are included solely for reference purposes and are not intended to be full or accurate descriptions of the contents thereof.

10. **Entire Agreement:** This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no warranties, representations and other agreements between the parties in connection with the subject matter hereof. No supplement, modification, waiver or termination of this Agreement shall be valid or binding upon the parties unless the same is in writing and signed by all parties hereto.

11. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

12. **Severability:** If any provision of this Agreement is determined to be unenforceable or invalid for any reason whatsoever that unenforceability or invalidity shall not affect the enforceability or validity of the remaining portions of this Agreement and such unenforceable or invalid provision shall be severed from the remainder of this Agreement.

13. **Successors and Assigns:** This Agreement shall enure to the benefit of the Dominant Lands and be binding upon the Servient Lands and upon the parties hereto and their respective successors and assigns, provided that Cameco may only assign the benefit of this Agreement to a person who

has an interest in the Dominant Lands or part thereof. In the event of any transfer of all or part of the Servient Lands, the Owner shall cause each transferee of all or part of such Servient Lands to acknowledge and be bound by the provisions of this Agreement, the Restrictive Covenants and Noise and Vibration Easement, and to assume the obligations of the Owner hereunder pursuant to an agreement in writing with Cameco, in form and substance acceptable to the Cameco, acting reasonably.

14. **Counterparts**: This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

[Signature pages follow]

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

**THE CORPORATION OF THE
MUNICIPALITY OF PORT HOPE**

By: _____
Name:
Title:

By: _____
Name:
Title:
We have the authority to bind the Corporation

**CAMECO PROPERTY HOLDINGS
INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:
We have the authority to bind the Corporation

CAMECO CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:
We have the authority to bind the Corporation

SCHEDULE "A"

SERVIENT LANDS

FIRSTLY:

PART OF PIN 51072-0256(LT)

PART OF LOTS 414, 415, 416 AND 417 SOUTH OF MARSH ST., PLAN SMITH ESTATE PORT HOPE DESIGNATED AS PART 2 ON PLAN 39R-14377; MUNICIPALITY OF PORT HOPE

SECONDLY:

PART OF PIN 51072-0258(LT)

PART SMITH ST., PLAN STEWART PORT HOPE (CLOSED BY PH65755) DESIGNATED AS PART 3 ON PLAN 39R-14377; MUNICIPALITY OF PORT HOPE

SCHEDULE "B"

DOMINANT LANDS

PIN 51072-0146(LT)

LT 398-404 PL SMITH ESTATE PORT HOPE EXCEPT C4181; MUNICIPALITY OF PORT HOPE

PIN 51072-0244(LT)

PT LTS 427, 428 & 429 SMITH ESTATE PLAN AND PART OF THE ORIGINAL ROAD ALLOWANCE BETWEEN LTS 6 AND 7 (PINE STREET) BROKEN FRONT CONCESSION AND PT LT 6 BROKEN FRONT CONCESSION BEING PT 1 PL 39R12377; MUNICIPALITY OF PORT HOPE

PIN 51072-0247(LT)

PART OF LOTS 418, 419, 420, 421 AND 422 PL SMITH ESTATE, PARTS 1, 2 AND 6, PLAN 9R1204; SUBJECT TO AN EASEMENT OVER PARTS 1 AND 6, PLAN 9R1204 AS IN PH66592E; MUNICIPALITY OF PORT HOPE

PIN 51072-0248(LT)

FIRSTLY:LTS 374, 375, 376, 377, 378, 382, 383, 384, 385 & 386 PL SMITH ESTATE PORT HOPE, PT LTS 379, 380, 381, 387 & 388 PL SMITH ESTATE PORT HOPE, PT TPLS 61, 62 & 63 PL STEWART PORT HOPE, AND PT JOHN ST, MARSH ST, SMITH ST, SCULTHORPE ST & WOLFE ST PL STEWART PORT HOPE (CLOSED BY PH68509, BPH90, BPH103, PH2483, PH61779, PH61781 & PH66589) ALL DESIGNATED AS PTS 6, 7, 8, 9, 16, 17, 19 & 20 PL 9R1273; T/W AN EASEMENT OVER REGISTRY DIVISION LANDS BEING PT RDAL BTWN LOTS 6 & 7 BFC, (CLOSED BY NC400510) PT LT 6 BFC AND PT HARBOUR LANDS BEING PT 2 PL 39R12674 AS IN ND115479; T/W AN EASEMENT OVER PART 1 PL 39R12660, PART 10 PL 39R12674 & PT 2 PL 39R12377 AS IN ND113653; S/T AN EASEMENT IN GROSS OVER PT 3 PL 39R12660 AND PTS 1 & 2 PL 9R1241 AS IN ND113660; MUNICIPALITY OF PORT HOPE SECONDLY: PT HARBOUR LANDS PL SMITH ESTATE PORT HOPE AND PT OF LTS 361, 362, 363, 364, 365, 366, 367, 368, 369, 370,371, 372, 373, 423, 424, 425, 426, 427, 428 & 429 PL SMITH ESTATE PORT HOPE, PT TPL 61 PL STEWART PORT HOPE, PT LOT 6CON BROKEN FRONT HOPE, PT MARSH ST PL STEWART (CLOSED BY PH2483), PT OF RDAL BTN LTS 6 & 7 CON BROKEN FRONT HOPE (AKA PINE ST) (CLOSED BY ND113625) ALL DESIGNATED AS PTS 1, 2, 3, 4, 5, 6, 7, 8, 11 & 12 PL 9R2236, SAVE AND EXCEPT PTS 1, 3, 4, 5 & 10 PL 39R12674 AND PT 1 PL 39R12641; S/T AN EASEMENT OVER PT 1 PL 9R2236 AS IN D1701; S/T AN EASEMENT IN GROSS OVER PT 3 PL 39R12660 AND PTS 1 & 2 PL 9R1241 AS IN ND113660; T/W AN EASEMENT OVER REGISTRY DIVISION LANDS BEING PT RDAL BTWN LOTS 6 & 7 BFC, (CLOSED BY NC400510) AND PT LT 6 BFC, PT HARBOURLANDS ALL DESIGNATED AS PT 2 PL 39R12674 AS IN ND115479 & NC400512; T/W AN EASEMENT OVER PART 1 PL 39R12660,PART 10 PL 39R12674 & PT 2 PL 39R12377 AS IN ND113653 & NC400543; MUNICIPALITY OF PORT HOPE THIRDLY: PT OF HARBOUR LANDS PL SMITH ESTATE PORT HOPE DESIGNATED AS PTS 1 & 2 PL 39R12867; MUNICIPALITY OF PORT HOPE FOURTHLY: PT OF ELDORADO PLACE (FORMERLY JOHN ST) PL STEWART PORT HOPE (CLOSED BY

ND113625) DESIGNATED AS PT 1 PL 39R12642; S/T AN EASEMENT IN GROSS OVER PT 1 PL 39R12642 AS IN ND113660; MUNICIPALITY OF PORT HOPE FIFTHLY: PT OF HAYWARD ST PL STEWART PORT HOPE (CLOSED BY ND113625) DESIGNATED AS PTS 1 & 2 PL 39R12643; S/T AN EASEMENT IN GROSS OVER PTS 1 & 2 PL 39R12643 AS IN ND113660; MUNICIPALITY OF PORT HOPE

PART OF PIN 51072-0256(LT)

PART OF LOTS 414, 415, 416 AND 417 SOUTH OF MARSH ST, PLAN SMITH ESTATE PORT HOPE DESIGNATED AS PART 1 ON PLAN 39R14377; MUNICIPALITY OF PORT HOPE

PART OF PIN 51072-0258(LT)

PART SMITH ST PLAN STEWART PORT HOPE (CLOSED BY PH65755) DESIGNATED AS PART 4 ON PLAN 39R14377; MUNICIPALITY OF PORT HOPE