

Water Agreement
between
IronUnits LLC
and
The City of Toledo

The City of Toledo (“Toledo”), an Ohio charter municipal corporation, and IronUnits LLC, a Delaware limited liability company and a subsidiary of Cleveland-Cliffs Inc. (“IU”), enter into this Water Agreement to provide Filter Wash Water and Potable Water to the hot briquetted iron production plant to be constructed by IU in Toledo, Ohio (the “HBI Facility”). Toledo and IU will collectively be referred to as the “Parties.” The effective date of this Water Agreement is _____, 2018.

As used in this Water Agreement:

“Filter Wash Water” means water conveyed to the Wash Water Handling Facility by the drains at the Collins Park Water Treatment Plant (“Plant”);

“Potable Water” means water produced by the Plant that meets applicable drinking water standards;

“Potable Takeover Point” means the point in the right-of-way where the trunk main connects to infrastructure that is solely used to transport Potable Water to IU; and

“Filter Takeover Point” means the point Filter Wash Water passes the Plant fence line.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions and terms to be kept and performed, the Parties agree as follows:

SECTION 1. SALE OF FILTER WASH WATER

Toledo agrees to sell Filter Wash Water to IU for use at IU’s HBI Facility under the following conditions:

- A. Rate** – The rate to be paid to Toledo for Filter Wash Water shall be equivalent to 25% of the fourth block rate charged to consumers within Toledo as specified in Toledo Municipal Code § 933.02(a)(4). As this rate is changed, the price will continue to equal 25% of the newly codified fourth block rate as established by the Toledo Municipal Code. In the event that the Toledo Municipal Code is no longer used to set rates for industrial customers within the City of Toledo, the rate shall be agreed upon by the Parties subject to the following limitation: in no event shall the rate be higher than 25% of the last applicable declining block in the Toledo Municipal Code adjusted by the applicable average annual residential water rate increases as published by the Ohio Environmental Protection Agency.

B. Infrastructure – It is the intent of the Parties that IU shall pay for all costs associated with creating the infrastructure between the Plant and the HBI Facility to transmit the Filter Wash Water, including any land acquisition or easement costs. All designs and construction of the new infrastructure contemplated hereby to be located at the Plant and from the Plant to the Filter Takeover Point must be approved by both Parties. To the extent costs are incurred by Toledo to complete any aspect of such infrastructure, and to the extent pre-approved by IU consistent with a scope of work and budget to be mutually developed by the Parties cooperating in good faith, IU shall pay for such work effort promptly following receipt of approved invoices so that Toledo will not be required to raise capital or utilize its credit mechanisms to complete the work. After construction is completed, all of these assets will belong to IU except for the assets located at the Plant, which will be owned by the City of Toledo as shown in more detail on **Exhibit A**. The Parties will work together to ensure that all such water infrastructure is constructed and available for use on or before December 31, 2019. Solely for the purposes of clarification and planning, the following aspects of this infrastructure are listed as a non-exhaustive description of the work that is to be completed:

1. Wash Water Handling Facility – IU will hire the engineer or other contractors to design the improvements to the Wash Water Handling Facility located at the Plant. Toledo will utilize these designs as part of its bid process to award the contract pursuant to its contracting procedures.
2. Force Main – there shall be a force main that connects the Wash Water Handling Facility to IU. Toledo anticipates that the force main will likely be built by different contractors and therefore can be divided into two sections: “A” and “B.” Force Main Section A shall connect the Wash Water Handling Facility to Force Main Section B at the Filter Takeover Point. Force Main Section B will connect from the Filter Takeover Point, through the public right away, to IU. This is shown in more detail on **Exhibit A**.
 - a. Force Main Section A shall be located at the Plant. Toledo shall hire the designer. To facilitate the efficient design and construction, Toledo may use existing vendors to complete this work, however, IU is only obligated to pay for the design and construction of Section A, which shall have a separate accounting from other work being performed for Toledo by existing vendors.
 - b. Force Main Section B shall include all work in the public right of way and connect Force Main Section A to IU at the Filter Takeover Point. The design and contracting of Section B shall be conducted via the City’s regular contracting procedures. Toledo may use existing vendors to complete this work, however, IU is only obligated to pay for the design and construction of Section B, which shall have a separate accounting from other work being

performed for Toledo by existing vendors.

3. Meter – IU will construct and own the infrastructure and Filter Wash Water meter on property other than the Plant, the type and design of which must be approved by Toledo and be consistent with the Toledo Municipal Code and all Toledo regulations.
 4. SCADA and electrical upgrades – Subject to IU’s approval of a scope of work and budget to be mutually developed by the Parties cooperating in good faith, IU agrees to reimburse Toledo in full for the one-time costs associated in upgrading the Filter Wash Water SCADA and building out the related electrical system as incurred by Toledo promptly following receipt of approved invoices.
- C. Billing** – Toledo will bill IU directly as a metered customer for Filter Wash Water.
- D. Compliance with Laws** – IU agrees to be bound by the applicable ordinances, policies, and rules and regulations of Toledo as they may be enacted and/or amended from time to time as related to water supply and use pursuant to this Water Agreement as applicable to providing water to the HBI Facility. In addition, the Parties shall take any and all actions to comply with any state or federal law or regulation governing water service including, without limitation, the Safe Drinking Water Act and the Clean Water Act. The Parties shall assist each other in complying with such regulations and the reporting requirements to federal, state and local authorities.
- E. Maintenance** – IU will be responsible for maintaining the entire Filter Wash Water infrastructure except for those assets that are located at the Plant.
- F. Environmental Liabilities** – IU assumes all environmental liabilities arising from its use of the Filter Wash Water, which shall consist only of Potable Water prior to being used as filter backwash water, and other miscellaneous purposes in the Plant. Plant uses increase suspended solids and may exert a chlorine demand. The parameters of the Filter Wash Water are attached as **Exhibit E**. If IU decides to discharge anything (including Filter Wash Water) into the Waters of the United States, it is solely responsible for obtaining a NPDES permit and following all other environmental laws and regulations.
- G. Use of Toledo’s Sewers** – If IU decides to discharge the Filter Wash Water into a Toledo sanitary or storm sewer system, the Parties agree to negotiate in good faith a separate agreement for the usage of that sewer system.
- H. No Guarantees of Quantity** – The Parties acknowledge that there is no guarantee of any quantity of Filter Wash Water and that Toledo will only sell said Filter Wash Water when it is determined not to be needed for a municipal purpose (it being understood that selling Filter Wash Water to another third party does not constitute a municipal purpose).

SECTION 2. SALE OF POTABLE WATER

Toledo agrees to sell Potable Water to IU for use at IU's HBI Facility under the following conditions:

- A. Rate** - The rate to be paid to Toledo for Potable Water shall be established by the Toledo Municipal Code. In the event that the Toledo Municipal Code is no longer used to set rates for industrial customers within the City of Toledo, the rate shall be agreed upon by the Parties subject to the following limitation: in no event shall the rate be higher than the last applicable declining block in the Toledo Municipal Code adjusted by the applicable average annual residential water rate increases as published by the Ohio Environmental Protection Agency.
- B. Infrastructure** – IU agrees to pay for all costs associated with creating the physical connection and metering between HBI and Toledo's distribution system to transmit Potable Water, including any land acquisition or easement costs. The design and construction of the infrastructure must be approved by both Parties and must include an approved backflow prevention device. To the extent costs are incurred by Toledo to complete any aspect of such infrastructure, the budget is to be mutually developed by the Parties cooperating in good faith and IU shall pay for such work effort on a monthly basis so that Toledo will not be required to raise capital or utilize its credit mechanisms to complete the work. After construction is completed, all of these assets will belong to IU except for the assets located at the Plant and between the Plant and the Potable Takeover Point, which will be owned by the City of Toledo, as shown in more detail on **Exhibit A**. The Parties will work together to ensure that all such water infrastructure is constructed and available for use on or before December 31, 2019.
- C. Compliance with Laws** – IU agrees to be bound by the applicable ordinances, policies, and rules and regulations of Toledo as they may be enacted and/or amended from time to time as related to water supply and use pursuant to this Water Agreement as applicable to providing water to the HBI Facility. In addition, the Parties shall take any and all actions to comply with any state or federal law or regulation governing water service including, without limitation, the Safe Drinking Water Act and the Clean Water Act. The Parties shall assist each other in complying with such regulations and the reporting requirements to federal, state and local authorities.
- D. Commingling Prohibited** – Provided that Toledo can supply IU's requirements, IU agrees to use Toledo as its sole source for Potable Water. Potable Water will not be commingled with Filter Wash Water, any other potable water, or any other potable water infrastructure until such Potable Water has passed beyond the approved applicable backflow prevention device.

SECTION 3. APPLICATION FOR UTILITY SERVICES

IU agrees to apply for public utility services from Toledo prior to service commencement

using the standard application form and abide by all rules and regulations for utility services. Examples of the forms are attached as **Exhibits B, C and D.**

SECTION 4. WATER SUPPLY, PRESSURE AND QUALITY NOT GUARANTEED

- A.** Although the Parties will cooperate to secure continuous water supply availability to the HBI Facility of approximately 1,800 gallons per minute (2.6 million gallons per day), IU acknowledges that Toledo undertakes to supply Filter Wash Water and Potable Water to HBI only when it is lawful and there is available supply, and Toledo agrees it will not enter into water agreements or other commitments to supply an aggregate volume of water in excess of the then-current Plant capacity. Toledo does not guarantee any fixed pressure or continuous supply of Filter Wash Water or Potable Water. In the event of serious damage to reservoirs or pumping stations or other emergencies, either water may be shut off without notice for the reasonable duration necessary to effect repairs. Any suspension of water service or inadequacy of water pressure for any of the foregoing causes and/or for any reasons beyond the control of Toledo shall in no case render Toledo liable for damages to IU or any person, firm, corporation and/or governmental body.
- B.** IU agrees to abide by and enforce any emergency restrictions of water use that may be imposed upon consumers by Toledo in order to maintain service.

SECTION 5. INDEMNITY

- A.** IU for itself and its employees, agents, officers and representatives (the “Releasers”) agrees to indemnify and hold harmless Toledo and its elected officials, employees, agents and representatives (the “Releasees”) from any and all claims, costs, losses, damages or obligations of any nature, including, without limitation, fines, assessments or judgments, resulting from or arising under or relating to the breach of any of the conditions of this Water Agreement or from any negligent act or willful misconduct, in each case, committed by the Releasers.
- B.** By agreeing to supply water to IU, Toledo does not assume liability for injuries or damages to persons or property resulting from any acts or omissions by Toledo or their agents, contractors, subcontractors and representatives, or any third party.

SECTION 6. ASSIGNMENT & MODIFICATION

- A.** This Water Agreement may not be assigned by any Party without the written consent of the other Party, which will not be unreasonably withheld. A transfer of any Party’s rights and duties through the valid creation of a regional water district shall not constitute an assignment for purposes of the preceding sentence, although Toledo agrees to provide IU with reasonable advance notice of any such transfer. The benefits of this Water Agreement may not be assigned by any Party without the written consent of the other Party, which will not be unreasonably withheld.

- B.** In the event Toledo sells or leases any water assets, or otherwise joins a regional water authority pursuant to R.C. § 6119 (including without limitation the Toledo Area Water Authority), and solely to the extent such buyer, lessee or authority assumes and agrees to perform the obligations and liabilities of Toledo under this Water Agreement, then in that case Toledo will have no further obligations under this Water Agreement and IU, for itself and its employees, agents, officers and representatives, agrees to hold harmless the Releasees and waives any and all claims, costs, losses, damages or obligations of any nature, including, without limitation, fines, assessments or judgments, resulting from or arising under this Water Agreement and relating to such activity undertaken by Toledo. As part of any purchase, sale, lease or similar agreement relating to the Plant, to the greatest extent permitted by applicable law, and regardless of the timing of agreeing to or implementing any such transaction, Toledo will cause such successor to the Plant to assume and agree to perform Toledo's obligations and liabilities under this Water Agreement.
- C.** No modification of this Agreement will be binding unless in writing and signed by both Parties.
- D.** Where the Ohio Environmental Protection Agency or any other agency having jurisdiction over Toledo water system requires changes in this Water Agreement or in a water system, such changes shall be made if they are permitted under Ohio law.

SECTION 7. SEVERABILITY & CHALLENGES

- A.** In the event any provision of this Water Agreement shall be held to be invalid, illegal or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof and such invalid, illegal or unenforceable provision shall be deemed enforceable to the fullest extent permitted by law. The Parties agree to cooperate with one another in defending this Water Agreement in the event it is challenged in a court of law.

SECTION 8. TERM

- A.** Unless further extended by mutual agreement of the Parties, this Water Agreement shall expire forty (40) years from the effective date listed on page 1 or earlier upon the mutual agreement of the Parties.
- B.** In the event that the infrastructure described in Section 1(B) or 2(B) is not completed by December 31, 2020, either Party may terminate this Water Agreement via written notice to the other Party, except that IU (including its parent, Cleveland-Cliffs Inc.) would remain liable for all costs associated with the infrastructure described in Sections 1(B) and 2(B) to the extent such costs are actually incurred by Toledo prior to such termination pursuant to the scopes of work and budgets approved by IU in accordance with such Sections and have not

previously been reimbursed by IU.

SECTION 9. GENERAL PROVISIONS

- A.** This Agreement shall inure to the benefit of, and shall be binding upon the Parties and their respective successors, heirs and permitted assigns.
- B.** This Agreement shall be governed by, enforced under, and construed in accordance with, the laws of the State of Ohio and the Parties consent to the jurisdiction and venue of the Courts of Lucas County, Ohio.
- C.** This Agreement may be executed in any number of counterparts and by each Party in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.
- D.** Any notices or other communications required or permitted by this Water Agreement shall be in writing and delivered personally or by a national courier service or by certified mail, postage prepaid, return receipt requested, as follows:

To Toledo:

Department of Public Utilities
City of Toledo
420 Madison Ave., Ste. 100
Toledo, OH 43604
Attention: Director

With Copy To:

Department of Law
City of Toledo
One Government Center Suite 2250
Toledo, OH 43604
Attention: Director

To IU:

Clifford Smith
President of IronUnits LLC
and
James Graham
Secretary of IronUnits LLC
200 Public Square, Suite 3300
Cleveland, OH 44114.

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IN WITNESS WHEREOF, the Parties have executed this Agreement effective on the date first written above:

CITY OF TOLEDO:

Mayor
Wade Kapszukiewicz

Approved as to form:

Approved as to content:

Department of Law

Director of Public Utilities
Edward A. Moore

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date first written above:

IronUnits LLC

President

EXHIBIT A

WATER INFRASTRUCTURE OWNERSHIP DRAWINGS

Please see attached.

EXHIBIT B

AGENT AUTHORITY FORM FOR UTILITY MATTERS

Please see attached.

EXHIBIT C

LETTER FROM TOLEDO TRANSMITTING APPLICATION FOR SERVICE

Please see attached.

EXHIBIT D

APPLICATION FOR SERVICE

Please see attached.

EXHIBIT E

Parameters of Toledo Filter Wash Water

Analyte	Range, units
Phenol Alkalinity	2-15 mg/L
Total Alkalinity	45-80 mg/L
Hardness	75-125 mg/L
Calcium Hardness	62-88 mg/L
Chlorine, total	0-1.31 mg/L
Fluoride	0.9-1.1 mg/L
pH	9-10 mg/L
Chloride	20-39 mg/L
Sulfate	32-54 mg/L