

## CLAWBACK AGREEMENT

Due to the volume of documents, electronic files and e-mails being produced by Plaintiff Roche Constructors, Inc., Lincoln County, Nebraska, and/or Treanor Architects, P.A., (hereinafter collectively referred to as “the Parties”) in the cause styled *Roche Constructors, Inc. v. Lincoln County, Nebraska, et al.*, Case No. 7:12-CV-5011, the Parties agree to the following “clawback” arrangement:

1. The inadvertent disclosure or production of documents, electronic files, or e-mails produced by any party that contains information protected by the attorney-client privilege, work product doctrine, or other legally-recognized privilege (“inadvertently produced material”) shall not constitute a waiver of any privilege or right nor result in a subject matter waiver of any kind.

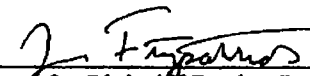
2. Within a reasonable amount of time after discovering that it has provided inadvertently produced material, the producing party shall provide written notice to all parties that received such inadvertently produced materials that a document, electronic file, or e-mail is subject to a claim of privilege, stating the basis for the privilege or other protection and requesting that the inadvertently produced material, and any copies, be returned or confirmed as destroyed. Upon receiving such notice, the receiving party or parties shall:

- a. Promptly return the item and any hard copies of the same to counsel for the producing party, or
- b. Destroy all copies of such material and confirm such destruction in writing to the producing party, or
- c. To the extent that such information contained in a document subject to a claim has already been used in or described in other documents generated or maintained by a receiving party, the receiving party shall sequester such documents until the claim has been resolved and/or take reasonable steps to retrieve any such inadvertently disclosed information, and further promptly disclose the names of any individuals who have read or have had access to such materials, or
- d. Convey in writing, to the producing party and other parties that received the materials, within five (5) days of receiving such notification from the producing party, any basis it has for disagreeing with the claim of protection, in which event the producing party must within five (5) days thereafter file a motion to present the information to the Court under seal for a determination of the claim.

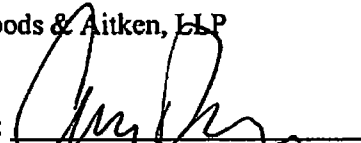
3. If any receiving party discovers that a production includes privileged or trial preparation materials, then it must treat such inadvertently produced material as though the producing party had notified it, promptly notify the producing party and the other parties that received such materials of such disclosure and give the producing party the opportunity to request its return.

4. Upon receipt of the aforesaid notification by the producing party or otherwise becoming aware that materials are inadvertently disclosed materials, the Parties must retain, preserve, and safeguard the potentially protected information, treat it as privileged and confidential, and not copy, use or disclose it in any manner until an agreement is reached or a determination made by the Court.

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By:   
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Inc.

Woods & Aitken, LLP

By:   
Counsel for Lincoln County, Nebraska

Douthitt Frets Rouse Gentile & Rhodes, LLC

By: \_\_\_\_\_  
Counsel for Third-Party Defendant Treanor  
Architects, P.A.

4. Upon receipt of the aforesaid notification by the producing party or otherwise becoming aware that materials are inadvertently disclosed materials, the Parties must retain, preserve, and safeguard the potentially protected information, treat it as privileged and confidential, and not copy, use or disclose it in any manner until an agreement is reached or a determination made by the Court.


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