

DISBURSEMENT AGREEMENT

This AGREEMENT is entered into on **October 27, 2010**, by and between **Total Commitment, LLC** (hereinafter referred to as "Contractor"), with its principal place of business located at **11435 Bryan Road, Mission, Texas 78573** and **Aacon, Inc.** (hereinafter referred to as "Disbursement Agent"), with its principal place of business located at **624 West University Dr., PMB #238, Denton, TX 76201-1889**.

The Parties acknowledge that the purpose of this Agreement is to provide disbursing authority and agent for and on behalf of the Contractor so as to provide the Contractor with an appropriate and applicable basis to obtain surety bonding from **Insurors Indemnity Company** (hereinafter "Surety"), and so as to assure the proper and full payment of the Contractor pursuant to its obligations to both the Owner and the Surety. In no event, however, shall the Disbursing Agent be deemed an indemnitor of the Contractor, as the Disbursing Agent shall act only with respect to the receipt and disbursement of monies received pursuant to the Prime Contract, and for no other purpose or reason.

This Agreement shall remain in full force and effect during the term of the Contract between the Owner and Contractor. The Contractor understands and acknowledges in the event of earlier termination of the terms and conditions of this Agreement, the Surety must be notified in writing immediately thereof and may cause the provisions of its indemnity agreement with Surety to be immediately invoked and enforced, at the sole discretion of the Surety.

The Disbursing Agent may at any time terminate its responsibility to the Principal or its successor by giving thirty (30) days written notice via registered or certified mail to the Principal and to the Surety at their last known addresses. However, immediately upon written request, the Disbursing Agent shall surrender all funds and records pertaining to the described project to the Surety or a third party designated by the Surety.

1. On **September 28, 2010**, Contractor and **Hidalgo County, Texas, joined by the City of Penitas, Texas** ("Owner") entered into a contract ("Contract") for the construction and/or improvement described as: **City of Penitas Street Improvements, Project No.: 5008/09-60-0311-5000-6000** (the "Project"). The Contract price is **\$357,792.50**. The Project must be constructed in accordance with the Contract and certain plans, specifications and other documents incorporated into the plans and specifications (collectively "Contract Documents").
2. As required by the Contract, Contractor as Principal has executed or will execute payment and performance bonds ("Surety Bonds") provided by **Insurors Indemnity Company** ("Surety").
3. Contractor represents that it is a properly licensed contractor and has all licenses and permits required or necessary to construct the Project.
4. Contractor desires that Disbursement Agent monitor the disbursement of all monies paid by Owner to Contractor for or on account of Project ("Contract Funds").
5. Disbursement Account
 - 5.1 Contractor agrees that Disbursement Agent will open a commercial checking account at **JP Morgan Chase Bank, N.A., Denton North Branch #00435, Denton, Texas**, Account No. **890145436**, styled in the form;

Aacon, Inc., Disbursement Agent For **Total Commitment, LLC – City of Penitas**, the ("Disbursement Account"). All contract funds, including retainages, change orders, interest, modifications and claims proceeds received from the Owner, or forwarded by the Contractor, shall be deposited into this account. The Disbursement Agent will be the sole signatory on the Disbursement Account. The Disbursement Account will be used solely for deposit of Contract Funds and payment of just bills incurred by or on behalf of Contractor in connection with construction of the Project. Contractor shall not borrow funds against the Disbursement Account or the Project, nor shall it pledge the Disbursement Account as collateral against any loan, indebtedness or obligation.

5.2 Contractor agrees that it has assigned all contract funds to Aacon, Inc, for deposit into the Disbursement Account, and Contractor shall cause or direct the Owner to make all payments due under the Contract directly to Disbursement Agent for deposit into the Disbursement Account in the form of the Irrevocable Directive of Draw Proceeds form; attached hereto as Exhibit A. Owner's signing of the Exhibit "A" document will be construed as evidence that Contractor has revealed to the Owner the general content of this AGREEMENT, and Owner's signature on the Exhibit "A" document shall not relieve the Contractor from the Contractor's obligation to deliver, or cause to be delivered, all payments due under the Contract to the Disbursement Agent for deposit into the Disbursement Account.

5.3 Concurrently with the Execution of this AGREEMENT, Contractor shall deposit with **JP Morgan Chase Bank, N.A., Denton North Branch #00435, Denton, Texas**, into the Disbursement Account, Account No. **890145436**, the sum of \$500.00 in cash, for the purpose of opening the account. This sum will be held, used and disbursed under the same terms and provisions provided in this AGREEMENT. Any surplus funds that might be left after disbursement under Article 7, and after disbursement of Contractor's monthly fee draw under Paragraph 7.7 shall remain and accumulate in the Disbursement account until the Owner, or its representative, has issued a "Letter of Acceptance", or its equivalent, all bills have been paid for the Project, and/or Surety gives its written consent to release the funds. In the event of a default pursuant to Article 9 herein, any and all surplus funds shall not be released to Contractor unless and until Surety has given its written consent thereto.

6. Contractor's Responsibilities

6.1 Contractor shall furnish to Disbursement Agent a signed copy of the Contract, all Contract Documents, Contractor's original Bid Estimate, a detailed cost breakdown including the names of all anticipated subcontractors and material suppliers/vendors, including the amounts of their contracts, and an estimate of the Contractor's anticipated profit or fee; and, if requested in writing by the Disbursement Agent, Contractor shall furnish copies of all subcontracts and major purchase orders, a copy of Contractor's certificate of insurance, a construction schedule and all other items for which Disbursement Agent determines are necessary to process payments to be made by Disbursement Agent. Contractor further agrees to immediately notify Disbursement Agent of any change in said contract amounts or estimated costs and furnish the Disbursement Agent a copy of all Change Order Requests, all Change Orders, all Contract Modifications, and all Contract Directives.

6.2 Contractor shall furnish to the Disbursing Agent copies of any and all notices received by the Contractor pursuant to the applicable state's Construction Lien Law, little Miller Act, or if a federal project, the Miller Act or the Capehart Act, whichever is applicable, including any Notices to Contractor, Notices to Owner, Notices of Non-Payment or Claims of Lien or other statutory notices, and shall do so within seven (7) days of its receipt of any such notices or liens. Failure to furnish copies of notices to the Disbursing Agent shall be deemed a material breach of the Disbursement Agreement.

6.3 Contractor shall give notice to the Disbursing Agent of the existence of any disagreement or dispute between the Owner, the Contractor or any subcontractor, materialman or provider of labor or services to the Project.

6.4 At the request of the Disbursing Agent, the Contractor shall provide the Disbursement Account with such additional funds as may be necessary to fully pay all costs related to the contract between the Owner and Contractor. The Parties acknowledge that this paragraph is intended to avoid Disbursing Agent's lacking sufficient funds to pay current bona fide claims of potential lienors or claimants based on the unavailability of funds in the Contractor's Disbursement Account. The Contractor's failure to deposit required additional funds in the Disbursement Account hereunder shall be deemed a material default of this Agreement.

7. Disbursement of Funds

7.1 Contractor authorizes, instructs and directs Disbursement Agent to hold in the Disbursement Account all Contract Funds and to disburse Contract Funds as follows:

7.2 The Disbursement Agent agrees that it will release funds only upon the presentation by Contractor of fully executed vouchers, from which checks shall be made payable directly to the subcontractors and material suppliers/vendors who have supplied labor, materials, rental equipment, services, and/or incorporated equipment, and who are entitled to receive payment. Said vouchers shall list the total amount due each vendor and the amount to be deducted from each line item category on the cost breakdown that has been submitted to Disbursement Agent by Contractor. Each voucher shall be accompanied by delivery receipts and tickets, invoices, and/or any other similar supporting documentation requested by the Disbursement Agent for processing of the payment. No payments for labor, materials, equipment or services shall be authorized in excess of estimated costs as represented to Disbursement Agent, without prior consent of Disbursement Agent, and until labor, materials and/or equipment have been incorporated into the construction or consumed in the construction. The Contractor's fee shall be reduced to cover all costs in excess of estimated costs, unless the original estimated costs are revised upwards by signed Change Orders, Contract Modifications and/or Contract Directives.

Subcontractors and suppliers eligible for payment under this Paragraph include:

(1) Subcontractors performing a portion of the work required by the plans, specifications, or general conditions of the Project;

(2) Suppliers furnishing materials, services, or equipment to be incorporated into the Project, or necessary to complete the work required by the plans, specifications, and general conditions of the Project. Equipment includes equipment installed into the completed project or the rental of equipment necessary to complete the Project. Equipment shall not include the purchase of construction equipment, tools, code books, and/or clothing by the Contractor, or

(3) Subcontractors and/or vendors who are covered by the applicable bond lien law or public works statute(s).

Payments not included in subparagraphs (1) and (2) above are prohibited without the written consent of Surety.

7.3 The Disbursement Agent will make each disbursement check payable directly to the supplier and/or subcontractor to whom such payment is due per each voucher submitted to the Disbursement Agent by the Contractor.

7.4 The Disbursement Agent will also release funds to the Contractor in reimbursement of miscellaneous and C.O.D. materials, suppliers and services (generally under \$1,000 per purchase), and direct job labor, all used to complete the Project upon presentation by the Contractor of fully executed vouchers listing the total amount due for materials, supplies, services and labor and the amount to be deducted from each line item category on the cost breakdown that has been submitted to Disbursement Agent by the Contractor. Further, it is agreed that each voucher shall be accompanied by paid invoices, delivery slips, canceled checks, time sheets, payroll ledgers, certified payrolls (if required by the Contract, and/or similar documentation as may be required by the Disbursement Agent. Labor eligible for reimbursement under this section shall include only direct labor employed at the job site required to complete the Project including job site supervision. No reimbursement is eligible for corporate officers' payroll or contractor's general, administrative or overhead labor, materials, supplies or services, except as provided in Paragraph 7.7 below.

7.5 Disbursement Agent shall reserve funds equivalent to the amount of liens or documented and potentially supportable claims or which Disbursement Agent is, or should be, aware that may be filed against the Project in connection with the Contract, plus a reasonable sum (not to exceed 25% of the lien or claim) for estimated legal costs and attorney's fees connected therewith.

7.6 Disbursement Agent shall withhold **zero percent (0%)** retainage from each payment, in addition to any amount being withheld by the Owner for retainage. This sum will be held as "collateral" per agreement with the Surety, and shall only be released to the Contractor upon the written consent of the Surety. Such withholding is in addition to any percentage that has been identified above as set aside for reserves. Surety must consent in writing before any retainage, collateral and/or reserve funds (per Article 7.5) may be released to the Contractor; however, any withholdings by the Disbursement Agent in addition to retainage, collateral and/or reserve funds may be released by the

Disbursement Agent to Contractor, or its subcontractors upon presentation of properly executed vouchers for payments under Paragraphs No. 7.2 or 7.4 above, or the Disbursement Agent's satisfaction of job completion and acceptance.

7.7 The Contractor will be paid its Contractor's Fee monthly, paid in the same proportion as the Contractor is paid by the Owner, not to exceed a total of \$_____ (less cost overruns) as proceeds are available in the Disbursement Account to cover Home Office Overhead and Fee. Disbursements to the Contractor under this Paragraph may be withheld by the Disbursement Agent until all documents required by this AGREEMENT have been furnished to the Disbursement Agent's satisfaction.

7.8 Disbursement Agent will obtain, and keep on file for inspection by all parties to this AGREEMENT and by Surety, appropriate releases from subcontractors, laborers, and material suppliers.

7.9 Disbursement Agent is expressly authorized, instructed and directed to disburse funds to itself for payment of its fee for services in accordance with Article 10 below.

7.10 In the event of default, either voluntary or involuntary, by Contractor of:

- (1) Its obligations under this AGREEMENT;
- (2) The Surety Bonds and/or any other agreement between Contractor and Surety; or
- (3) The Contract;

all funds then held in the Disbursement Account or which may thereafter come to be deposited in the Disbursement Account pursuant to this AGREEMENT, shall be disbursed only with the consent of Surety. Upon receipt of written demand from Surety, following a default of the Principal as defined in this Paragraph, the Principal consents to, agrees, and directs, instructs and authorizes the Disbursement Agent to release all contract funds held under this AGREEMENT to Surety.

7.11 Upon completion of the Project as evidenced by a letter of acceptance by the Owner and satisfaction of all liabilities related to or arising out of the Contract or this AGREEMENT, any funds remaining in the Disbursement Account and any funds that may be accrued by the Disbursement Account shall become the property of Contractor and will be paid within 30 days of receipt of the last payment by Owner, satisfaction of all contractual obligations and upon written consent of Surety.

7.12 Disbursement Agent is authorized to provide copies of the disbursement monthly summaries, and/or other information on the Disbursement services to Surety, if requested. This authorization shall not create any third party obligations or fiduciary duties between Disbursement Agent and Surety or any other third party.

7.13 In the event of a default as defined by Article 9 below, or if the potential for a default appears imminent, Disbursement Agent is expressly directed, instructed and authorized to provide notice to Surety.

8. Disbursement Agent's Responsibilities

8.1 Disbursement Agent accepts this assignment and undertakes to perform promptly, diligently and faithfully the duties set forth in Article 7 above, upon the condition, however, that its disbursement of funds upon the signed order of Contractor (or Contractor's duly authorized agent) shall, as to Disbursement Agent's duty to the Contractor, be conclusively deemed to be the exercise of due care.

In addition to the foregoing obligation, Disbursement Agent maintains at its principal place of business in Denton, Texas, adequate records of funds received and disbursed in connection with the Project and will permit inspection of these records at any reasonable time or times by Contractor or Surety, or the authorized agent of either of them. The Disbursement Agent has the right to change its principal place of business and will give notice, as soon as possible, if it changes its place of business to the Contractor, the Surety and to the Owner, if applicable.

8.2 Disbursement Agent agrees to maintain for the benefit of Contractor and Surety, a policy of insurance protecting Contractor and Surety from any errors and omissions on its part in performing its obligations pursuant to this AGREEMENT. Disbursement Agent will provide evidence of said coverage to both Contractor and Surety upon their written request(s).

8.3 Contractor and Disbursement Agent agree that in the event the Surety gives the Disbursing Agent directions with respect to the disbursement of Contract Funds, Disbursing Agent shall be obligated to follow such directions and such directions shall take precedence over any conflicting directions in this AGREEMENT or by the Contractor.

9. Default

9.1 There shall be deemed to have been a default under this AGREEMENT in the event of the occurrence of any of the following:

9.1.1 Failure of Contractor to perform any material obligation to be performed by Contractor in accordance with the Contract Documents or under this AGREEMENT;

9.1.2 Contractor's making of any untrue or misleading statement to Disbursement Agent as to any material fact for the purpose of causing Disbursement Agent to disburse Contract Funds or to take other action or to omit to take any action;

9.1.3 Failure of Contractor to use and apply within a reasonable time funds paid to the Disbursement Account for the purpose for which funds were paid;

9.1.4 Diversion to any other use of materials furnished, earmarked or obtained for use in this Project;

9.1.5 Contractor's making of an assignment for benefit of creditors, the appointment of a receiver for the Contractor or Contractor's property, or the insolvency of the Contractor;

9.1.6 Transfer, sale, conveyance or assignment by Contractor of Contract, or of this AGREEMENT, or of any rights, benefits or monies thereunder, except to persons entitled thereto by having furnished labor, materials, or services in the construction of the Project;

9.1.7 If Contractor is an individual, if Contractor dies or becomes incapacitated for any reason, thereby preventing Contractor from performing Contractor's obligations under this AGREEMENT, or if Contractor becomes a fugitive from justice or for any reason disappears and cannot be found immediately by Disbursement Agent by use of the usual methods;

9.1.8 Being defaulted by the Owner;

9.1.9 Breaking any agreement with the Surety.

10. Fee

10.1 For its customary services performed or to be performed pursuant to this AGREEMENT, Disbursement Agent shall be entitled to receive a fee of **\$3,577.93**. This fee shall conclusively be deemed earned by Disbursement Agent upon execution of this AGREEMENT, and paid as follows: **in the same proportion as the Contractor is paid by the Owner**. In the event of a default, any unpaid fee shall be paid in full. If the cost of the construction, including the cost of all alterations, deviations and extras, exceeds the sum of **\$357,792.50**, Disbursement Agent shall be entitled to receive an additional fee of **One Percent (1.0%)** of this excess cost.

10.2 Costs for checks, deposit slips, endorsement stamps, monthly bank service charges, reconciliation, accounting records sheets, and all other materials necessary or proper to establish the appropriate records for receipts and disbursements, along with shipment charges (Federal Express, UPS, Courier, Special Delivery, Etc.) for Disbursement packages, checks, documents, etc. are the sole responsibility of the Contractor and shall be paid by the Contractor from available funds in the Disbursement Account and reimbursed to Disbursement Agent immediately upon incurred cost.

10.3 If Disbursement Agent is required to perform extraordinary services, Contractor shall be liable to pay Disbursement Agent a reasonable sum for these services, and to reimburse Disbursement Agent for necessary expenses. If Disbursement Agent becomes a party to any default, claim, demand, arbitration or litigation arising out of labor or material lien claims involved in the Project or arising out of the Contract, Contractor shall be liable to pay to Disbursement Agent all of its attorneys' fees and legal costs and the amount of any settlement, judgment or other award rendered in connection with such action and these costs shall be considered Project Costs.

11. This AGREEMENT shall be construed according to the laws and statutes of the State of Texas, except for conflicts of Law questions, which will be construed according to the laws and statutes of the State of New York.

12. Venue under this AGREEMENT shall be in Denton County, Texas.
13. Any suit under this AGREEMENT must be filed within two (2) years and a day of this AGREEMENT being breached, the termination of this AGREEMENT, or the date on which the last check is issued per the terms of this AGREEMENT.
14. This AGREEMENT shall bind and inure to the benefit of the heirs, executors, administrators and successors in interest of the parties of the AGREEMENT.

The parties to this AGREEMENT have executed it on the day first written above.

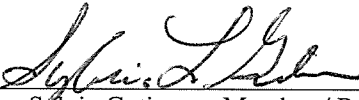
CONTRACTOR:	DISBURSEMENT AGENT:
Signed: 	Signed: <u>Arnold P. Acker</u>
By/Title: Sylvia Gutierrez, Member / President	By/Title: Arnold P. Acker, President & CEO
Company: Total Commitment, LLC	Aacon, Inc.
Address: 11435 Bryan Road	624 West University Dr., PMB #238
Mission, Texas 78573	Denton, Texas 76201-1889
Phone: 956-519-7111	Phone: 940-243-2143 (Patricia Young)
Fax: 956-	Fax: 940-387-2323 (Patricia Young)
Cell:	Cell #: 940-395-9222 (Arnold Acker)
Email: Totalcommitmentllc@yahoo.com	Email: arnold.acker@att.net
	Email: pat.young@charter.net

EXHIBIT A

TOTAL COMMITMENT, LLC
11435 Bryan Road
Mission, Texas 78573
Phone: 956-519-7111

IRREVOCABLE DIRECTIVE OF DRAW PROCEEDS

Insurors Indemnity Company ("Surety"), Contract Surety for TOTAL COMMITMENT, LLC, ("CONTRACTOR"), has required CONTRACTOR as a condition precedent to issuing its Payment and Performance bonds for the construction of a project known as: **City of Penitas Street Improvements, Project No.: 5008/09-60-0311-5000-6000**, to employ the services of a disbursement agent, Aacon, Inc. Aacon, Inc. is to be employed directly by CONTRACTOR and Aacon, Inc. is in no way a party to the agreement between the **Hidalgo County, Texas, joined by the City of Penitas, Texas** ("Owner") and CONTRACTOR.

The Disbursement Agreement between CONTRACTOR and Aacon, Inc. requires that the CONTRACTOR shall assign, per Article 9 of the Uniform Commercial Code and Chapter 9 of the Texas Business and Commerce Code, the Contract Proceeds only for the Project to Aacon, Inc. and the Owner shall direct or shall cause all contract funds, including, but not limited to retainage, interest, change orders, modifications or claim proceeds, if any, to be deposited into a Project Specific Disbursement Account that has been established by Aacon, Inc. for CONTRACTOR. **The Owner signing herein below irrevocably certifies that all payments made to CONTRACTOR for the construction described above shall be posted in the U.S. Mail, delivered by overnight mail, or hand delivered to:**

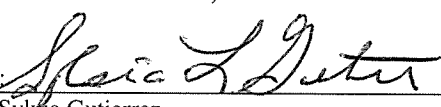
TOTAL COMMITMENT, LLC
C/O Aacon, Inc.
624 West University Dr., PMB #238
Denton, TX 76201-1889

Or wire transferred directly to the Project Specific Disbursement Account as follows:

Aacon, Inc., Disbursement Agent for TOTAL COMMITMENT, LLC
Account No. 890145436, JP MORGAN CHASE BANK.
ABA Routing No. 111000614, JP Morgan Chase Bank, N.A., Branch #00435
1200 West University Dr. Drive
Denton, Texas 76201

Aacon, Inc. has the right to change the address to which the funds are to be mailed, or to change the bank and/or account number to which the funds are to be deposited.

This certification is irrevocable by the Owner and can only be changed by written directive of CONTRACTOR with the written consent of the Chief Executive Officer or President of the Surety.

TOTAL COMMITMENT, LLC:	HIDALGO COUNTY, TEXAS, Joined By The City of Penitas, Texas:
Signed: 	Signed: _____ Date: _____
Print: Sylvia Gutierrez	Print: _____
Its: Member / President	Its: _____
	Phone/Fax: _____
	Email: _____

WAIVER AND RELEASE UPON PROGRESS PAYMENT

_____ ("Subcontractor/Vendor"), pursuant to an agreement with Total Commitment, LLC ("Contractor") supplied labor, materials, services, and/or equipment for the construction of a project (hereinafter "Project") known as **City of Penitas Street Improvements, Project No.: 5008/09-60-0311-500-6000**. Subcontractor/Vendor acknowledges that it has been paid _____ (\$_____) for the invoices described below, and Subcontractor/Vendor releases and discharges jointly and severally, Contractor for the Project, Hidalgo County, Texas, joined by the City of Penitas, Texas, as the Owner of the Project, and Insurors Indemnity Company, Bond No. XXXX, as the payment bond surety for the Project (collectively referred to as the "Released Parties"), of and from any and all claims, costs (including attorney's fees), liability, demands, liens, and/or causes of action of any kind whatsoever, certain or uncertain, known or unknown covering invoice number(s) , or all invoices are paid through _____.

Subcontractor/Vendor warrants and represents that all of its subcontractors, suppliers, laborers, and lessors of construction equipment, which have supplied labor, equipment, services, and/or materials to Contractor and/or Owner in connection with the Project, have been and/or shall be paid in full. Further, Subcontractor/Vendor agrees to indemnify the Released Parties and hold them harmless from any and all claims, costs (including attorney's fees), liability, demands, liens, and/or causes of action which any of the Released Parties may incur as a result of Subcontractor's/Vendor's failure to pay any such subcontractors, suppliers, laborers, and/or lessors. Subcontractor/Vendor shall remain liable for, and the Released Parties do not assume, any warranty, product liability, or other obligation relating to labor or materials supplied by Subcontractor/Vendor to the Project.

Subcontractor/Vendor shall promptly release, or cause to be released, any liens or encumbrances it may have filed or claimed against the Project.

EXECUTED this the ___ day of _____, 20__.

Subcontractor/Vendor

By: _____

Title: _____

STATE OF _____ ⊃

⊃

COUNTY OF _____ ⊃

This instrument was acknowledged and sworn to and subscribed before me on this the ___ day of _____, 20__, by _____, the _____ of _____, a _____ or a corporation, on behalf of said firm or corporation.

Notary Public - State of _____

Signed: _____

Printed or Typed Name of Notary

My Commission Expires: _____

file: release – Subcontractor