



## **ADDENDUM TO MEMBERSHIP AGREEMENT Confidentiality and Non-Disclosure**

This Addendum to Membership Agreement-Confidentiality and Non-Disclosure (the "Addendum") is an amendment to the Membership Agreement previously entered into by and between \_\_\_\_\_ (the "Member") and MISS DIG System, Inc. ("MISS DIG"), is made and entered into effective as of \_\_\_\_\_. In consideration of the mutual covenants and conditions contained herein, to induce the Member to continue to provide certain information to MISS DIG and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties to this Addendum do hereby agree as follows:

1. Definition of Confidential Information. For all purposes of this Addendum, the term "Confidential Information" shall collectively refer to all plans, drawings, layouts, or similar information or material showing the location of Member's facilities (as that term is defined in the MISS DIG Underground Facility Damage Prevention and Safety Act 174 of 2013, MCL 460.721 et. seq. (the "MISS DIG Act")) provided to MISS DIG or MISS DIG's affiliates, directors, officers, employees, agents or representatives in writing, pursuant to Member's obligations under the MISS DIG Act as a facility owner, as defined under the MISS DIG Act, in any form, including electronic or optical data storage and retrieval mechanisms regardless of whether any such information is protected by applicable trade secret or similar laws. Confidential Information also includes any notes, analyses, compilations, studies or other material or documents prepared by MISS DIG which contain, reflect or are based, in whole or in part, on the Confidential Information.

The provisions of this Addendum regarding Confidential Information shall not apply to information or material that (i) is publicly available or becomes publicly available (other than information that becomes publicly available through the action or fault of MISS DIG in violation of the terms of this Addendum), (ii) was or is obtained by MISS DIG from a third party, provided, that such third party, to the knowledge of MISS DIG, was not bound by a contractual, legal or fiduciary obligation of confidentiality to the Member or any other party with respect to such information or material; or (iii) MISS DIG is required to provide under the MISS DIG Act.

2. Restrictions on Disclosure. MISS DIG does hereby covenant and agree with the Member as follows:

2.1 Non-Disclosure. MISS DIG shall keep strictly confidential and shall



not disclose, or cause or permit to be disclosed, to any person or entity, the Confidential Information, except to MISS DIG's directors, officers, employees, managers, members, partners, representatives or agents, including, without limitation, its attorneys, and consultants ("Representatives") to whom disclosure is reasonably necessary in connection with MISS DIG's operation of the notification center, as defined in the MISS DIG Act. MISS DIG shall take all actions reasonably necessary to ensure that the Confidential Information remains strictly confidential and is not disclosed by MISS DIG or its Representatives to any person or entity except in accordance with the terms of this Addendum.

In the event that MISS DIG or its Representatives are requested or required (by applicable law, rule or regulation or oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or FOIA request or other similar process) to disclose any of the Confidential Information, MISS DIG shall provide the Member with prompt notice of any such request or requirement so that the Member may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Addendum. If, in the absence of a protective order or other remedy or the receipt of a waiver by the Member, MISS DIG or its Representatives are nonetheless, in the opinion of its outside legal counsel, legally compelled to disclose Confidential Information, MISS DIG or its Representatives may without liability hereunder disclose only that portion of the Confidential Information which such counsel advises MISS DIG or its Representatives are legally required to be disclosed, provided that MISS DIG or its Representatives, as the case may be, shall use all reasonable efforts to preserve the confidentiality of the Confidential Information, including, without limitation, by cooperating with the efforts of the Member (at the Member's expense) to obtain an appropriate protective order or other reliable assurance that confidential treatment will be afforded the Confidential Information by such tribunal.

2.2 Ownership. The Confidential Information is owned solely and exclusively by the Member, shall remain the exclusive property of the Member, and MISS DIG shall have no right, title, interest or license in or to any of the Confidential Information or any material developed therefrom.

2.3 MISS DIG's Representatives. MISS DIG and all of its subsidiaries, directors, officers, and employees shall be included within the definition of the term "MISS DIG" for purposes of this Addendum and shall be bound by the terms and conditions of this Addendum. MISS DIG shall be responsible for any failure to observe the terms of this Addendum by any of its directors, officers, or employees.



3. Equitable Remedies. MISS DIG hereby agrees that its failure to perform any obligation or duty which it has agreed to perform under this Addendum will cause irreparable harm to the Member, which harm cannot be adequately compensated for by money damages. It is further agreed by MISS DIG that an order of specific performance or for injunctive relief against MISS DIG in the event of a breach or default under the terms of this Addendum would be equitable and would not work a hardship on MISS DIG. Accordingly, in the event of a breach or default by MISS DIG hereunder, the Member, without any bond or other security being required and in addition to whatever other remedies are or might be available at law or in equity, shall have the right either to compel specific performance by, or to obtain injunctive relief against, MISS DIG, with respect to the failure of MISS DIG to perform any obligation or duty herein.
4. Governing Law; Forum. This Addendum shall be construed, performed and enforced in accordance with, and governed by, the internal laws of the State of Michigan, without giving effect to the principles of conflicts of law thereof. MISS DIG consents and agrees that all disputes arising out of or related to this Addendum, may be heard and determined, by federal or state trial courts located in Michigan or any appellate courts having jurisdiction over such trial courts. MISS DIG expressly submits and consents to the jurisdiction of such trial courts and waives any objection based on lack of personal jurisdiction, improper venue or forum non conveniens.
5. Miscellaneous. This Addendum shall be binding upon and inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and assigns. This Addendum constitutes the complete agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof between the parties and shall continue in full force and effect until terminated by mutual agreement of the parties hereto. The section headings used herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Addendum. Whenever possible, each provision of this Addendum shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision hereof is held to be invalid, illegal or unenforceable under any applicable law or rule in any jurisdiction, such provision will be ineffective only to the extent of such invalidity, illegality, or unenforceability, without invalidating the remainder of this Addendum. This Addendum may not be modified or amended and no provision hereof may be waived, in whole or in part, except by a written agreement signed by the parties hereto. No waiver of any breach or default hereunder shall be considered valid unless in writing, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar



nature. This Addendum may be signed by facsimile copy, and any such facsimile shall be considered an original. This Addendum may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum effective as of the date first set forth above.

MISS DIG:  
MISS DIG System, Inc.

By: \_\_\_\_\_  
Bruce Campbell, CEO

Member:  
\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_