

# Group 3 Internet-Based Open Booking System™ Services Agreement

Group 3 Marketing  
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This Internet-Based Open Booking System™ Services Agreement, dated \_\_\_\_\_, 2004, is by and between Group III Marketing of Plymouth, Inc. ("G3M") and \_\_\_\_\_ ("Customer").

G3M has developed and is the owner of computer programs and websites known as the Internet-based Open Booking System™ (which allows service providers to display available times for their clients to search the service provider's appointment schedules on-line) and e-Contact System™ (which allows service providers to email their clients who select such service.)

**G3M Services.** G3M shall provide customer's webmaster two protected links to the G3M Internet-Based Open Booking System™ that allows Customer to display up to fifty (50) available future appointments and other information provided by Customer. G3M shall assist Customer in setting up the system. G3M shall provide up to two (2) hours of training to Customer over the phone on how to use and update the Customer website using the Open Booking System™. If requested by Customer, G3M shall provide Customer with the ability, through G3M's e-Contact System™, to e-mail clients of Customer who have authorized such contact. Customer shall provide the content of all such e-mails. Customer is not obligated under the terms of this Agreement to use the e-Contact System provided by G3M. However, if Customer subscribes to this service, such service will be on-going every week during the term of this Agreement unless Customer notifies G3M otherwise before NOON on the Friday before the e-mail is scheduled to be sent. If Friday is a holiday, such notification must be made by the working day before the holiday. Customer will be responsible for the on-going update of all information posted on its website hosted by G3M and the content of any special offers or other writings distributed via the e-Contact System™.

Customer acknowledges there may be short-term lapses in the services provided by G3M due to technical interference and acts of God. G3M and its service providers will use commercially reasonable best efforts to restore service through back-up systems.

**Proprietary and Confidential Information; Customer Representations.** The e-mail addresses and other personal information supplied by Customer to G3M are the property of Customer, and G3M will use reasonable and prudent care to safeguard and protect and prevent the unauthorized use or disclosure of such information, including but not limited to non-disclosure agreements with all its employees and all contractors and service providers with access to such information. Customer and G3M will adhere to all state and federal laws relating to the use of Internet content and e-mail message content. Customer represents and warrants that: no e-mail addresses will be for children under the age of fifteen (15) years of age; e-mail addresses supplied by Customer shall be collected from Customer's client database or collected from known clients; Customer shall not submit an e-mail address for any person unless and until such person has agreed to receive e-mail communications from Customer; and Customer will not use or allow the use of any services provided hereunder for any illegal purpose or in furtherance of any criminal enterprise.

Customer shall in no way duplicate, transmit, decode, decompile, merge, modify, translate, or otherwise alter the Open Booking System™ or e-Contact System™ source code or any portion thereof, or attempt or cause or allow the same in any form

**Payment.** G3M will invoice Customer on a quarterly basis in advance of each calendar quarter in accordance with G3M's current pricing, which G3M may modify at its discretion with 30 days advance notice. All invoices are payable prior to the first day of the calendar quarter. If Customer terminates this Agreement for any reason prior to the end of a calendar quarter, no payments previously made for that quarter will be refunded. At its discretion, G3M may utilize an electronic payment system to facilitate payments. If Customer fails to pay any invoice by the due date, G3M shall have the right to disable or withhold the services provided hereunder without notice to Customer.

**Term and Termination:** This Agreement shall remain in force until either party hereto provides written notice of termination to the other party. There is no long-term relationship, express or implied, between G3M and Customer. Upon termination of this Agreement for any reason G3M shall delete or destroy all proprietary or confidential information of Customer and, if requested by Customer, G3M will return to Customer all e-mail addresses provided by Customer pursuant to this Agreement.

**Indemnification; Limitation of Damages; Attorneys' Fees.** The parties hereto shall indemnify, hold harmless and defend each other from and against any damage or injury or claim therefore arising out of or resulting from the indemnifying party's breach of this Agreement: provided, however, that IN NO EVENT WILL G3M BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE, LOSS OF DATA, INTERRUPTION OF BUSINESS, COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, OR FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE GOODS AND/OR SERVICES PROVIDED HEREUNDER, HOWEVER CAUSED, AND WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. G3M shall recover its reasonable attorneys' fees and costs incurred in enforcing this Agreement.

**Applicable Law.** This Agreement is governed by the laws of the State of Minnesota, and G3M and Customer consent to the exclusive jurisdiction of, and venue in, the Fourth Judicial District Court of the State of Minnesota for any disputes involving this Agreement.

Group III Marketing of Plymouth, Inc.

Customer

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

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