# WEBSITE DEVELOPMENT AND MAINTENANCE CONTRACT

This Contract is between Ascendance Counseling (the "Client") and And Then Designs, LLC, a South Carolina company ("ATD").

**1. WORK AND PAYMENT.**

**1.1 Project.** The Client is hiring ATD to design and develop the Client's website. ATD will also host and perform scheduled maintenance on the website in perpetuity.

**1.2 Schedule.** ATD will begin work upon initial payment and continue until work is completed. This Contract can be ended by either the Client or ATD at any time, under the terms of Section 4, Term and Termination.

**1.3 Payment.** The Client will pay ATD a total of $500 for the design and development phase of the website. Once completed, the Client will pay the annual hosting and maintenance fee of $120. Any edits requested outside of regular maintenance will incur an additional cost.

**(a) Website Development.** The Client will pay ATD a non-refundable deposit of $250 before work begins, to be deducted from the total billed amount. This deposit is non-refundable due to ATD reserving their schedule on behalf of the Client. The remainder will be due according to an agreed-upon payment schedule.

**(b) Website Hosting and Maintenance.** The Client will pay $10 monthly for hosting and maintenance for a minimum of twelve (12) months. Failure to pay within sixty (60) days of invoice due date will result in a lapse in hosting. Hosting will renew on an annual basis unless otherwise specified by the Client.

**(c) Additional Support.** Once the website has been launched, any additional edits will be billed at a rate of $30 per hour and added to the subsequent invoice.

**1.4 Expenses.** ATD may request additional payment for any agreed-upon, non-cancellable expenses, which must be approved by the Client in advance. Examples include domain purchases and/or renewals, necessary plugins, and other website-specific tools.

**1.5 Invoices.** ATD will invoice the Client as necessary. The Client agrees to pay the amount owed within sixty (60) days of receiving an invoice. Payment after that date will incur a late fee of 15% per month on the outstanding balance.

**2. OWNERSHIP AND LICENSES.**

**2.1 Client Owns All Work Product.** As part of this job, ATD is creating a "work product" for the Client. To avoid confusion, "work product" is the finished product, as well as any drafts, notes, materials, mockups, hardware, designs, inventions, patents, code, emails, email content, and anything else that ATD creates as part of the project. ATD hereby gives the Client this work product once the Client pays for it in full. This means ATD is giving the Client all of its rights, titles, and interests in and to the work product (including intellectual property rights), and the Client will be the sole owner of it. The Client can use the work product however it wants or it can decide not to use the work product at all. The Client, for example, can modify, destroy, or sell it, as it sees fit.

**2.2 ATD's Use of Work Product.** Once ATD gives the work product to the Client, ATD does not have any rights to it, except those that the Client explicitly gives ATD here. The Client gives permission to use the work product as part of portfolios and websites, in galleries, and in other media, so long as it is to showcase the work and not for any other purpose. The Client does not give permission to see or otherwise use the work product to make money or for any other commercial use. The Client is not allowed to take back this license, even after the Contract ends.

**2.3 IP That Is Not Work Product.** During the course of this project, ATD might use intellectual property that ATD owns or has licensed from a third party, but that does not qualify as "work product." This is called "background IP." Possible

examples of background IP are pre-existing marketing strategies, code, type fonts, properly licensed stock photos, proprietary marketing practices, and web application tools including but not limited to properly licensed WordPress themes and/or plugins.

ATD is not giving the Client this background IP. But, as part of the Contract, ATD is granting the Client a right to use the background IP to develop, market, sell, and support the Client's products and services. This grant will be revoked when the Contract is over.

**2.5 ATD's Right To Use Client IP.** ATD may need to use the Client's intellectual property to do its job. For example, if the Client is hiring ATD to build a website, ATD may have to use the Client's logo. The Client agrees to let ATD use the Client's intellectual property and other intellectual property that the Client controls to the extent reasonably necessary to complete the project described in this Contract. Beyond that, the Client is not giving ATD any intellectual property rights, unless specifically given by the Client in written form.

**3. REPRESENTATIONS.**

**3.1 Overview.** This section contains important promises between the parties.

**3.2 Authority To Sign.** Each party promises to the other party that it has the authority to enter into this Contract and to perform all of its obligations under this Contract.

**3.3 ATD Has Right To Give Client Work Product.** ATD promises that it owns the work product, is able to give the work product to the Client, and that no other party will claim that it owns the work product. If ATD uses employees or subcontractors, ATD also promises that these employees and subcontractors have signed contracts with ATD giving ATD any rights that the employees or subcontractors have related to ATD's background IP and work product.

**3.4 ATD Will Comply With Laws.** ATD promises that the manner it does this job, its work product, and any background IP it uses comply with applicable laws and regulations.

**3.5 Work Product Does Not Infringe.** ATD promises that its work product does not and will not infringe on someone else's intellectual property rights, that ATD has the right to let the Client use the background IP, and that this Contract does not and will not violate any contract that ATD has entered into or will enter into with someone else.

**3.6 Client Will Review Work.** The Client promises to review the work product, to be reasonably available to ATD if ATD has questions regarding this project, and to provide timely feedback and decisions.

**3.7 Client-Supplied Material Does Not Infringe.** If the Client provides ATD with material to incorporate into the work product, the Client promises that this material does not infringe on someone else's intellectual property rights.

## 4. TERM AND TERMINATION.

This Contract is ongoing, until ended by the Client or ATD. Either party may end this Contract for any reason by sending an email to the party, informing the recipient that the sender is ending the Contract and that the Contract will end in seven (7) days. The Contract official ends once that time has passed. The party that is ending the Contract must provide notice by taking the steps explained in Section 7.4. ATD must immediately stop working as soon as it receives this notice, unless the notice says otherwise. The Client will pay ATD for work done up until the end of the monthly billing period and will reimburse ATD for any agreed-upon, non-cancellable expenses.

## 5. CONFIDENTIAL INFORMATION.

**5.1 Overview.** This Contract imposes special restrictions on how the Client and ATD must handle confidential information. These obligations are expanded in this section.

**5.2 The Client's Confidential Information.** While working for the Client, ATD may come across, or be given, Client information that is confidential. This is information like customer lists, business strategies, research & development notes, statistics about a website, and other information that is private. ATD promises to treat this information as if it is ATD's own confidential information. ATD may use this information to do its job under this Contract, but not for anything else. For example, if the Client lets ATD use a customer list to send out a newsletter, ATD cannot use these email addresses for any other purpose. The one exception to this is if the Client gives ATD written permission to use this information for another purpose, ATD may use the information for that purpose as well. When this Contract ends, ATD must give back or destroy all confidential information, and confirm when it has done so. ATD promises that it will not share confidential information with a third party, unless the Client gives ATD written permission first. ATD must continue to follow these obligations, even after the Contract ends. ATD's responsibilities only stop if ATD can show any of the following: (i) that the information was already public when ATD came across it; (ii) the information became public after ATD came across it, but not because of anything ATD did or didn't do; (iii) ATD already knew the information when ATD came across it and ATD didn't have any obligation to keep it secret; (iv) a third party provided ATD with the information without requiring that ATD keep it a secret; or (v) ATD created the information on its own, without using anything belonging to the Client.

**5.3 Third-Party Confidential Information.** It's possible the Client and ATD each have access to confidential information that belongs to third parties. The Client and ATD each promise that it will not share with the other party confidential information that belongs to third parties, unless it is allowed to do so. If the Client or ATD is allowed to share confidential information with the other party and does

so, the sharing party promises to tell the other party in writing of any special restrictions regarding that information.

**6. LIMITATION OF LIABILITY.**

Neither party is liable for breach-of-contract damages that the breaching party could not reasonably have foreseen when it entered this Contract.

**7. GENERAL.**

**7.1 Assignment.** This Contract applies only to the Client and ATD. ATD cannot assign its rights or delegate its obligations under this Contract to a third-party (other than by will or intestate), without first receiving the Client's written permission. In contrast, the Client may assign its rights and delegate its obligations under this Contract without ATD's permission. This is necessary in case, for example, another Client buys out the Client or if the Client decides to sell the work product that results from this Contract.

**7.2 Arbitration.** As the exclusive means of initiating adversarial proceedings to resolve any dispute arising under this Contract, a party may demand that a dispute be resolved by arbitration administered by the American Arbitration Association in accordance with its commercial arbitration rules.

**7.3 Modification; Waiver.** To change anything in this Contract, the Client and ATD must agree to that change in writing and sign a document showing their contract. Neither party can waive its rights under this Contract or release the other party from its obligations under this Contract, unless the waiving party acknowledges it is doing so in writing and signs a document that says so.

**7.4 Notices.**
(a) Over the course of this Contract, one party may need to send notice to the other party. For the notice to be valid, it must be in writing and delivered one of the following ways: personal delivery, email, or certified or registered mail

(postage prepaid, return receipt requested). The notice must be delivered to the party's address listed at the end of this Contract or to another address that the party has provided in writing as an appropriate address to receive notice.

(b) The timing of when a notice is received can be very important. To avoid confusion, a valid notice is considered received as follows: (i) if delivered personally, it is considered received immediately; (ii) if delivered by email, it is considered delivered upon acknowledgment of receipt by the recipient; (iii) if delivered by registered or certified mail (postage prepaid, return receipt requested), it is considered receipted upon receipt as indicated by the date on the signed receipt. If a party refuses to accept notice or if notice cannot be delivered because of a change in address for which no notice was given, then it is considered received when the notice is rejected or unable to be delivered. If the notice is received after 5:00pm on a business day at the location specified in the address for that party, or on a day that is not a business day, then the notice is considered received at 9:00am on the next business day.

**7.5 Severability.** This section deals with what happens if a portion of the contract is found to be unenforceable. If that's the case, the unenforceable portion will be changed to the minimum extent necessary to make it enforceable, unless that change is not permitted by law, in which case the portion will be disregarded. If any portion of the Contract is changed or disregarded because it is unenforceable, the rest of the Contract is still enforceable.

**7.6 Signatures.** The Client and ATD may sign this document using online e-signature software, including applicable WordPress plug-ins. These electronic signatures count for all intents and purposes.

**7.7 Governing Law.** The validity, interpretation, construction, and performance of this document shall be governed by the laws of South Carolina in the United States of America.

**7.8 Entire Contract.** This Contract represents the parties' final and complete understanding of this job and the subject matter discussed in this Contract. This Contract supersedes all other contracts (both written and oral) between the parties.

THE PARTIES HERETO AGREE TO THE FOREGOING AS EVIDENCED BY THEIR SIGNATURES BELOW.

| | |
|---|---|
| _____ | _____ |
| Name | Name |
| _____ | _____ |
| Date | Date |
| Karen J. Dover<br>And Then Designs | Tamika Lewis<br>Ascendance Counseling |