

Barry Mccalvey Design / Terms and Conditions

The following Terms and Conditions of Service apply to all products and services provided by Barry Mccalvey Design to the Client.

1. Intellectual Property

1.1. All intellectual property of any and all material including original sketches, mockups belong to Barry Mccalvey Design.

1.2. Barry Mccalvey Design may display the deliverables in their portfolio and website, and in galleries and other exhibitions for the purposes of professional recognition. Barry Mccalvey Design may also publicly describe its role in the project.

1.3. All Intellectual Property Rights and all other rights in the Deliverables (excluding for the avoidance of doubt the Materials) shall be owned by Barry Mccalvey Design.

1.4. Barry Mccalvey Design hereby licenses all such rights to the client on a non-exclusive, non-transferable, non-assignable basis (with no right to sub-licence) to such extent as is necessary to enable the client to make reasonable use of the Deliverables and the Services as is envisaged by the parties.

1.5. Once final payment has been made the intellectual copyright will be transferred to the client. No reproduction or redistribution is allowed without written consent of Barry Mccalvey Design. All source files belong to Barry Mccalvey Design and can be acquired if necessary for an additional fee.

2. Copyright

2.1. The client shall ensure that any and all images, logos etc and/or their use do not infringe the Intellectual Property Rights of a third party or any applicable laws or regulations.

2.2. Barry Mccalvey Design is entitled (in its sole discretion) to refuse to use any of these materials.

3. Indemnify

3.1. The client shall indemnify and hold Barry Mccalvey Design harmless against all and any damages, liability, demands, loss, expenses and costs (including without limitation legal fees) suffered or incurred by or awarded against Barry Mccalvey Design in connection with or arising as a result of any action or claim that the Materials and/or their use infringe the Intellectual Property Rights of a third party or any applicable laws or regulations.

4. Content

4.1. The client agrees to make available as soon as is reasonably possible to Barry Mccalvey Design all materials required to complete the work to the agreed standard and within the set deadline.

5. Liability

5.1. Barry Mccalvey Design will not be liable for costs incurred, compensation or loss of earnings due to the failure to meet agreed deadlines.

5.2. Barry Mccalvey Design will not be liable or become involved in any disputes between the client and their clients and cannot be held responsible for any wrongdoing eg, any disputes re content/images that have been provided to us for inclusion on the site.

5.3. Barry Mccalvey Design will not be liable for any costs incurred, compensation or loss of earnings due to the work carried out on behalf of the client or any of the clients appointed agents.

5.4. Barry Mccalvey Design will not be liable for any costs incurred, compensation or loss of earnings due to the inclusion of material and information submitted by the client.

5.6. The client is expected to proof read the print work produced by Barry Mccalvey Design before being made generally available for use. This will be signed off whereupon the client becomes liable for any mistakes published.

5.7. Any additions to briefs provided will be carried out at the discretion of Barry Mccalvey Design and where no charge is made by Barry Mccalvey Design for such additions, Barry Mccalvey Design accept no responsibility to ensure such additions are error free and reserve the right to charge an according amount for any correction to these or further additions.

6. Payment

6.1. A deposit of 50% is required with any standard project before any design work will be carried out. This figure is non-refundable. A deposit is required from any new client before any work is carried out. Work on the project will not commence until this amount has cleared. It is Barry Mccalvey Design's policy that any outstanding accounts for work carried out by Barry Mccalvey Design or its affiliates are required to be paid in full, no later than 30 days from the date of the invoice unless by prior arrangement with Barry Mccalvey Design.

6.2. Once the agreed project has been designed and completed the final balance of payment is then due. There are no exceptions to this, i.e if the client decides they no longer want the work, as they have commissioned the work and paid a deposit they are still obliged to pay for the work that has been done. Non-payment will result in legal action being taken if necessary. Once full payment is received for the agreed project, it is assumed that the project has been completed to the client's satisfaction and no refunds can be offered.

6.3. Once a deposit is paid and work completed the client is obliged to pay the balance of payment in full. Accounts that remain outstanding for 30 days after the date of invoice, will incur an extra charge of 2% per month of the outstanding amount.

6.4. If accounts are not settled or Barry Mccalvey Design have not been contacted regarding the delay, access to the related website may be denied and web pages removed, we will then pass such cases to the Small Claims Court to pursue payment, non payment can result in county court judgements (ccj's) being added to the clients credit rating.

6.5. Following consistent non payment of an invoice a Solicitor will contact the client in question, with a view to taking the matter further and if need be to seek payment through legal procedures, and if necessary court summons.

7. Design Credits

7.1. The Client authorises the Barry Mccalvey Design to publicise their completed work to Web search engines and other Web directories and indexes, as well as on web-based portfolio sites such as Dribbble, Behance, etc. The designer may also publicly describe its role in the project. This will only be done when the project is live or at the client's request.

8. Termination

8. Barry Mccalvey Design shall be entitled to terminate the contract immediately due to the following events:

- a. The client refuses to provide the necessary instructions to allow Barry Mccalvey Design to complete the project;
- b. The client fails to provide the necessary instructions to allow Barry Mccalvey Design to complete the project;
- c. The client refusing to pay for any invoices within 30 days;

8.1. On notification of termination, all outstanding dealings with the client come to an end and the client is immediately required to pay in full for the project.

8.2. If the client does not make any payment to Barry Mccalvey Design by the due date or if Barry Mccalvey Design terminates the Contract for the client's material breach or insolvency this licence will automatically terminate. [Barry Mccalvey Design makes no representation or warranty that the exercise of the rights granted to the client will not infringe the rights of any third party.]

9. Force Majeure

9.1. Barry Mccalvey Design shall not be liable to the client or deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the obligations of Barry Mccalvey Design in relation to the Services, if the delay or failure was due to any cause beyond the reasonable control of Barry Mccalvey Design.

9.2. Without prejudice to the generality of the foregoing the following, shall be regarded as causes beyond the reasonable control of Barry Mccalvey Design: Act of God, explosion, flood, tempest, fire or accident, War or threat of war, sabotage, insurrection, civil disturbance or acquisition, Acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any government parliamentary or local authority, strikes, lockouts or other industrial action or trade disputes (whether involving employees of Barry Mccalvey Design or any third party), difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery.

9.3. The party affected by such circumstances shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so.

9.4. If such circumstances continue for a continuous period of time of more than 6 months, either the client or the designer may terminate this agreement by written notice to the other party.

10. Publicity

10.1 The Supplier may use any work or part thereof made under this contract in its own publicity material without the prior written consent of the Client.

11. General

11.1. These terms and conditions shall apply to and shall be incorporated into the contract between Barry Mccalvey Design and the client, for the supply of the Services to the exclusion of any other terms that the client seeks to impose or incorporate or which are implied by trade, custom, practice or course of dealing.

11.2. No addition to or variation of, exclusion or attempted exclusion of, any of these terms and conditions shall be binding on Barry Mccalvey Design unless in writing and signed by a duly authorised representative of Barry Mccalvey Design.

11.3. No one other than the parties shall have any right to enforce any term of this Contract. If a court or any other competent authority finds that any provision (or part of a provision) of the Contract is invalid, unenforceable or illegal, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

11.4. This Contract and any disputes or claims arising out of or in connection with it or its subject matter or

formation (including without limitation non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the courts of the English courts.

12. Acceptance

12.1. Please take the time to read these terms and conditions carefully. It is not necessary for any client to sign these terms and conditions for them to apply, any use of our services will imply that you read and accepted our terms and conditions.

12.2. These Terms together with the details in the relevant proposal constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties.

12.3. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law. The Client's signature or payment of the non-refundable deposit constitutes agreement to and acceptance of these Terms and Conditions.

12.4. The client agrees to the supply of the Services in accordance with these terms and conditions, acknowledges that it has read and understood these terms and conditions and agrees to be bound by them.

Graphic design / Branding / App design / Digital design:

- Files will be released in high resolution PDF format upon receipt of final payment.
- Work can only begin upon acceptance of my estimate (online / email / in writing).
- No work can be shown or sent for proofing until receipt of deposit.
- Original artwork files can be released for an extra fee.

Website design / Website development:

- Websites will not go live until full payment has been made.
- Make sure you have checked that the website is fit for your purpose, it is your sole responsibility to make sure it is correct for you.
- After you have agreed on the website and you have signed the contract there will be no changes to the website and they will be added at an additional cost if at all unless otherwise specified.
- Any extra add-ons throughout the design stage will be added to the initial invoice and will be due before the website is live.