



# PRESTIGE LEISURE UK

36 Firth Road, Houstoun Industrial Estate, Livingston EH54 5DJ  
Tel: 01506 443 070 Fax: 01506 443 620 | email: info@prestigeleisure.com | www.prestigeleisure.com

## ACCOUNT APPLICATION FORM

### COMPANY DETAILS

Company Name: ..... Trading Name: .....

Address: .....

..... Postcode: .....

Tel: ..... Fax: .....

Email: .....

Company Registration No.: ..... Date of Incorporation: .....

Registration Office Address: .....

.....

Sole Traders or Partnership: (Please give private addresses of Proprietor/Partners) Name of Directors/Partners (Please indicate Sole Proprietor/Partner/Director)

.....

.....

.....

.....

Number of years in Business: ..... Nature of Business: .....

### CREDIT LIMIT REQUIRED

.....

# ACCOUNT APPLICATION FORM

## TRADE REFERENCES

1. Name: .....

Address: .....

..... Postcode: .....

Tel: ..... Fax: .....

2. Name: .....

Address: .....

..... Postcode: .....

Tel: ..... Fax: .....

3. Name: .....

Address: .....

..... Postcode: .....

Tel: ..... Fax: .....

## BANK DETAILS

Name: .....

Address: .....

..... Postcode: .....

Tel: ..... Fax: .....

## UK DATA PROTECTION ACT 1998/ REPUBLIC OF IRELAND DATA PROTECTION ACTS 1988 AND 2003 ("THE ACTS") – INFORMATION NOTICE

Words shown in italics have the meaning given by the Acts. Data relating to you as an individual or to individuals within your organization ("*personal data*") may be processed by us as *data controllers* for purpose of carrying out our business and will be held securely in confidence. We may disclose your *personal data* to third parties such as insurers, credit insurers, credit reference agencies and other carefully selected parties, who may process your *personal data* as *data controllers* for the purpose of carrying out insurance, risk assessments, credit management and other associated activities. We may also receive *personal data* on you from such third parties. Your *personal data* may be *processed* within or outside the European Economic Area, but always in strict compliance with the Acts. We or such third parties may contact you with details of other products in writing, electronically, by telephone or by other means. By providing us with your *personal data*, you consent to our *processing* of such *data* as described in this notice.

You should tick the relevant box and return this notice to us with your name and address if:

- You object to *processing* of your *personal data* as set out in this notice; or
- You do not wish to be contacted for marketing purposes; or
- You require details of any third party *data controllers* who may also process your *personal data*.

You have the right of access to your *personal data* we hold on you, and you have the right to rectify such *data* if inaccurate or *processed* unfairly. If you wish to exercise these rights, please write to us with details of your request.

For more information on your rights or definitions used in this notice, please see the UK Information Commissioner's website at [www.ico.gov.uk](http://www.ico.gov.uk) or the Irish Data Protection Commissioners website at [www.dataprotection.ie](http://www.dataprotection.ie)

## I have read and agreed to the Terms and Conditions of Trading appearing overleaf.

Signature: ..... Date: .....

Sole Proprietor / Partner / Director (Please indicate) .....

## Terms and Conditions of Trading

- 1 Definitions
  - 1.1 In these terms the following words have the following meanings:
    - 1.1.2 the 'Contract' shall mean any contract between the Company and the Buyer for the sale and purchase of Goods, incorporating these terms;
    - 1.1.3 the 'Goods' shall mean any goods agreed under these terms to be supplied to the Buyer by the Customer (including any parts or parts of them);
    - 1.1.4 the 'Company' shall mean Prestige Leisure UK Ltd; and
    - 1.1.5 the 'Buyer' shall mean the person(s), firm or company who purchases the Goods from the Company.
- 2 Business customers and consumers
  - 2.1 Some of these terms apply to consumers only; some apply to business customers only. Those terms are marked as such.
  - 2.2 All other terms apply to all customers.
  - 2.3 The Buyer is classified as a business customer if they indicate to the Company that the Goods supplied by the Buyer will be used in the course of their business or if the Buyer uses the Goods in the course of their business.
  - 2.4 If the Buyer is not a business customer, the Buyer is a consumer. The Buyer has certain statutory rights as a consumer which are not affected by these terms. It is recommended that the Buyer contact their local trading standards office for more information. Words in italic type are legal words which clarify, rather than alter, the meaning of the relevant clause.
- 3 Price
  - 3.1 The price quoted excludes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.
  - 3.2 Our quotations lapse after 30 days (unless otherwise stated).
  - 3.3 The price quoted excludes delivery (unless otherwise stated).
  - 3.4 Business customers only: unless otherwise stated, the price quoted to business customers is an illustrative estimate only and the price charged will be our price current at the time of delivery.
  - 3.5 Business customers only: rates of tax and duties on the Goods will be those applying at the time of delivery.
  - 3.6 Business customers only: at any time before delivery the Company may adjust the price to reflect any increase in the Company's costs of supplying the Goods.
- 4 Delivery
  - 4.1 All delivery times quoted are estimates only.
  - 4.2 If the Company fails to deliver within a reasonable time after the quoted delivery time, the Buyer may (by informing the Company in writing) cancel the Contract, however:
    - 4.2.1 the Buyer may not cancel if the Company receives the Buyer's notice after the Goods have been dispatched; and
    - 4.2.2 if the Buyer cancels the Contract, the Buyer can have no further claim against the Company under that Contract.
  - 4.3 If the Buyer accepts delivery of the Goods after the estimated delivery time, it will be on the basis that the Buyer has no claim against the Company for delay (including indirect or consequential loss, or increase in the price of the Goods).
  - 4.4 The Company may deliver the Goods in instalments. Each instalment is treated as a separate Contract.
  - 4.5 The Company may decline to deliver if:
    - 4.5.1 the Company believes that it would be unsafe, unlawful or unreasonably difficult to do so; or
    - 4.5.2 the premises (or the access to them) are unsuitable for the Company's vehicle.
  - 4.6 The Company may deliver in quantities of 5 per cent more or less than the quantity ordered and charge the Buyer the quantity actually delivered. The Buyer shall not be entitled to reject the whole consignment if there is a variation in the quantity.
  - 4.7 Delivery charges are as detailed in the price list and subject to change without prior notice. Delivery charges are based on deliveries carried out between 8.00am and 5.30pm, Monday to Friday (unless otherwise agreed). We may make additional charges for delivery times outside these hours.
- 5 Risk
  - 5.1 The Goods are at the Buyer's risk from the time of delivery.
  - 5.2 Delivery takes place either:
    - 5.2.1 at the Company's premises (if the Buyer is collecting them or arranging carriage); or
    - 5.2.2 at the Buyer's premises or address specified by the Buyer (if the Company is arranging carriage).
  - 5.3 The Buyer must inspect the Goods on delivery. If the Goods are damaged or not delivered, the Buyer must write to the Company within seven days of delivery or the expected delivery time. The Buyer must give the Company (and any carrier) a fair chance to inspect the damaged Goods.
- 6 Payment terms
  - 6.1 The Buyer is to pay the Company in cash or in cleared funds on or prior to delivery, unless the Buyer has an approved credit account.
  - 6.2 Business customers only: If the Buyer has an approved credit account, payment is due no later than 7 days (or else 10 or 30 days as confirmed on the invoice) after the date of our invoice unless otherwise agreed in writing.
  - 6.3 If the Buyer fails to pay the Company in full on the due date the Company may:
    - 6.3.1 suspend or cancel future deliveries;
    - 6.3.2 cancel any discount offered to the Buyer;
    - 6.3.3 Business customers only: charge the Buyer interest at the rate set under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998;
      - a. calculated (on a daily basis) from the date of the Company's invoice until payment;
      - b. before and after any judgment (unless a court orders otherwise);
    - 6.3.4 Consumers only: Charge the Buyer interest at a rate equivalent to the rate set for business debts under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998;
    - 6.3.5 claim fixed sum compensation from the Buyer under s.5A of that Act to cover our credit control overhead costs; and
    - 6.3.6 recover (under clause 6.8) the cost of taking legal action to make the Buyer pay.
  - 6.4 If the Buyer has an approved credit account the Company may withdraw it or reduce the credit limit or bring forward the due date for payment. The Company may take any of these actions at any time and without notice.
  - 6.5 Business Customers only: The Buyer does not have the right to set off any money the Buyer may claim from the Company against anything the Buyer may owe the Company.
  - 6.6 Consumers only: the Buyer may only set off money the Buyer may claim from the Company against money the Buyer may owe the Company with the Company's written agreement and on such terms as the Company may state.
  - 6.7 While the Buyer may owe money to the Company, the Company has the right to keep any property the Company may hold of the Buyer's until the Buyer has paid the Company in full (a lien).
  - 6.8 The Buyer is to indemnify the Company in full and hold the Company harmless from all expenses and liabilities the Company may incur (directly or indirectly and including finance costs, legal costs on a full indemnity basis and the costs of instructing a debt collection agency to recover a debt due to the Company if any) following any breach by the Buyer of any of the Buyer's obligations under these terms.
  - 6.9 Consumers only: clause 6.8 means that the Buyer is liable to the Company for losses the Company incurs because the Buyer does not comply with these terms. The Company may claim those losses from the Buyer at any time and if the Company has to take legal action the Company will ask the court to make the Buyer pay the Company's legal costs.
- 7 Title
  - 7.1 Consumers only: the Buyer's statutory rights are unaffected.
  - 7.2 Business customers only: until the Buyer pays all debts the Buyer may owe the Company:
    - 7.2.1 all Goods supplied by the Company remain their property;
    - 7.2.2 the Buyer must store them so that they are clearly identifiable as the Company's property;
    - 7.2.3 the Buyer must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for the Buyer;
    - 7.2.4 the Buyer may use those Goods and sell them in the ordinary course of the Buyer's business, but not if:
      - a. the Company revokes that right (by informing the Buyer in writing); or
      - b. the Buyer becomes insolvent.
  - 7.3 Business customers only: the Buyer must inform the Company (in writing) immediately if the Buyer becomes insolvent.
  - 7.4 Business customers only: if the Buyer's right to use and sell the Goods ends the Buyer must allow the Company to remove the Goods.
  - 7.5 Business customers only: the Company has the Buyer's permission to enter any premises where the Goods may be stored:
    - 7.5.1 at any time, to inspect them; and
    - 7.5.2 after the Buyer's right to use and sell them has ended, to remove them, using reasonable force if necessary.
  - 7.6 Despite the Company's retention of title to the Goods, the Company has the right to take legal proceedings to recover the price of Goods supplied should the Buyer not pay the Company by the due date. The Buyer is not the Company's agent. The Buyer has no authority to make any agreement on the Company's behalf or in their name.
  - 7.7
- 8 Warranties
  - 8.1 The Company warrants that the Goods:
    - 8.1.1 comply with their description on the Company's acknowledgement of order form; and
    - 8.1.2 are free from material defect at the time of delivery (as long as the Buyer complies with clause 8.4).

## Terms of Trading cont.

- 8.2 Business customers only: Unless otherwise agreed in writing the Company gives no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality including (as examples only) the washing stability, colour fastness, wearability or making up quality of the Goods or their fitness for any purpose.
- 8.3 Consumers only: the warranty in clause 8.1 is in addition to the Buyer's statutory rights.
- 8.4 If the Buyer believes that the Company has delivered Goods which are defective in material or workmanship, the Buyer must:
- 8.4.1 inform the Company (in writing), with full details, as soon as possible; and
- 8.4.2 allow the Company to investigate (the Company may need access to the Buyer's premises and product samples).
- 8.5 If the Goods are found to be defective in material or workmanship (following the Company's investigations), and the Buyer has complied with those conditions (in clause 8.4) in full, the Company will (at their option) replace the Goods or refund the price.
- 8.6 The Company is not liable for any other loss or damage arising from the Contract or the supply of Goods or their use, even if the Company is negligent, including (as examples only):
- 8.6.1 direct financial loss, loss of profits or loss of use; and
- 8.6.2 indirect or consequential loss
- 8.7 The Company's total liability to the Buyer (from one single cause) for damage to property caused by the Company's negligence is limited to £5,000,000.
- 8.8 For all other liabilities not referred to elsewhere in these terms the Company's liability is limited in damages to the price of the Goods.
- 8.9 Nothing in these terms restricts or limits the Company's liability for death or personal injury resulting from negligence.
- 8.10 Nothing in these terms affects or limits the Company's liability for fraudulent misrepresentation.
- 9 Specification
- 9.1 If the Company prepares the Goods in accordance with the Buyer's specifications or instructions the Buyer must ensure that:
- 9.1.1 the specifications or instructions are accurate;
- 9.1.2 Goods prepared in accordance with those specifications or instructions will be fit for the purpose for which the Buyer intends to use them; and
- 9.1.3 the Buyer's specifications or instructions will not result in the infringement of any intellectual property rights of a third party, or in the breach of any applicable law or regulation.
- 9.2 Business Customers only: the Company reserves the right;
- 9.2.1 to make any changes in the specifications of the Company's Goods that are necessary to ensure they conform to any applicable safety or statutory requirements; and
- 9.2.2 to make without notice any minor modifications in the Buyer's specifications the Company thinks necessary or desirable.
- 10 Return of goods
- 10.1 The Company will accept the return of Goods from the Buyer only:
- 10.1.1 by the Company's prior agreement and confirmed in writing;
- 10.1.2 by the Buyer contacting the Company's customer services department for a Goods return form and be issued with a returns authorisation number that must be clearly marked on the outer packaging of the Goods;
- 10.1.3 on payment of a minimum £10.00 handling charge or 10 per cent of the value of the total Goods ordered (whichever is higher), unless the Goods were defective when delivered; and
- 10.1.4 where the Goods are as fit for sale on their return as they were on delivery; or
- 10.1.5 where the Goods are faulty and have not been used or processed the Buyer must return the Goods within seven days of purchase.
- 10.2 If the Buyer fails to follow clause 10.1 in full the Goods will not be accepted for return.
- 10.3 No Goods will be authorised for return if purchased more than three months ago.
- 10.4 Underwear Goods are strictly non-returnable.
- 11 Export terms
- 11.1 Clause 11 of these terms applies (except to the extent that it is inconsistent with any written agreement between the Company and the Buyer) where the Company supplies the Goods over a international border or overseas.
- 11.2 The 'Incoterms' of the International Chamber of Commerce which are in force at the time when the contract is made apply to exports, but these terms prevail over the Incoterms to the extent that there is any inconsistency.
- 11.3 Unless otherwise agreed, the Goods are supplied ex works the Company's place of manufacture.
- 11.4 Where the Goods are to be sent by the Company to the Buyer by a route including sea transport the Company are under no obligation to give a notice under section 32(3) of the Sale of Goods Act 1979.
- 11.5 The Buyer is responsible for arranging testing and inspection of the Goods at the Company's premises before shipment (unless otherwise agreed). The Company is not liable for any defect in the Goods which would be apparent on inspection unless a claim is made before shipment. The Company is not liable for any damage during transit.
- 11.6 The Company is not liable for death or personal injury arising from the use of the goods delivered in the territory of another State (within the meaning of s.26 (3) (b) Unfair Contract Terms Act 1977).
- 12 Cancellation
- 12.1 The Buyer may not cancel the order unless the Company agrees in writing (and clauses 4.2.2 and 12.2 then apply).
- 12.2 If the order is cancelled (for any reason) the Buyer is then to pay the Company for all stock (finished or unfinished) that the Company may then hold (or to which the Company is committed) for the order.
- 12.3 The Company may suspend or cancel the order, by written notice if:
- 12.3.1 the Buyer fails to pay the Company any money when due (under the order or otherwise);
- 12.3.2 the Buyer becomes insolvent;
- 12.3.3 the Buyer fails to honour their obligations under this Contract.
- 13 Waiver and variations
- 13.1 Any waiver or variation of the terms of this Contract is binding in honour only unless:
- 13.1.1 made (or recorded) in writing;
- 13.1.2 signed on behalf of each party; and
- 13.1.3 expressly stating an intention to vary these terms.
- 13.2 All orders that the Buyer places with the Company will be on these terms of Contract (or any that we may issue to replace them). By placing an order with the Company, the Buyer is expressly waiving any printed terms the Buyer may have to the extent that they are inconsistent with the Company's terms of Contract.
- 14 Force majeure- business customers only
- 14.1 If the Company is unable to perform their obligations to the Buyer (or able to perform them only at unreasonable cost) because of circumstances beyond the Company's control, the Company may cancel or suspend any of our obligations to the Buyer, without liability.
- 14.2 Examples of those circumstances include act of God, accident, explosion, war, terrorism, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.
- 15 General
- 15.1 English law is applicable to any Contract made under these terms. The English and Welsh courts have non-exclusive jurisdiction.
- 15.2 If the Buyer is more than one person, each Buyer is liable for all of the Buyers' obligations under these terms (joint and several liability).
- 15.3 If any of these terms are unenforceable as drafted:
- 15.3.1 it will not affect the enforceability of any other of these terms; and
- 15.3.2 if it would be enforceable if amended, it will be treated as so amended.
- 15.4 The Company may treat the Buyer as insolvent if:
- 15.4.1 the Buyer is unable to pay their debts as they fall due; or
- 15.4.2 the Buyer (or any item of the Buyer's property) becomes the subject of:
- a. any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
- b. any application or proposal for any formal insolvency procedure; or
- c. any application, procedure or proposal overseas with similar effect or purpose.
- 15.5 Business customers only: all brochures, catalogues, fabric samples and other promotional materials are to be treated as illustrative only and subject to change without prior notice. Their contents form no part of any Contract between the Company and the Buyer and the Buyer should not rely on them in entering into any Contract with the Company.
- 15.6 Business customers only: any notice by either of the Company which is to be served under these terms of Contract may be served by leaving it at or by delivering it to (by first class post or by fax) the other's registered office or principal place of business. All such notices must be signed.
- 15.7 No Contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the customer or seller.
- 15.8 The only statements upon which the Buyer may rely in making the Contract with the Company are those made in writing by someone who is (or whom the Buyer reasonably believes to be) the Company's authorised representative and either:
- 15.8.1 contained in the Company's estimate (or any covering letter) and not withdrawn before the contract is made; or
- 15.8.2 which expressly state that the Buyer may rely on them when entering into the Contract.
- 15.9 Please note that the Company may transfer personal information about the Buyer to those the Company may appoint to administer the Buyer's account or recover amounts owing. That may include, for example, passing information about the Buyer to the Company's insurers, debt recovery agents and solicitors, if the Buyer fails to pay the Company.