



The Baller Factory Facility Hire Terms and Conditions

Hirer:	Name: Address: Email: Mobile:
Purpose of Hire:	[insert]
Hire Fees:	[insert] per hour
Facility:	The Baller Factory located at Unit 7/4-8 Deeds Road, Camden Park SA

THE BALLER FACTORY PTY LTD (referred to as “we, our or us”) and the HIRER (referred to as “you or your”) acknowledge and agree that each of the provisions set out below form part of the Agreement between us and you for your use of the Facility. To assist us to provide you with the best baller experience possible, please make sure you read and understand these terms and conditions. We advise you to only sign this facility hire agreement if you understand and agree to abide by these conditions.

1. Definitions

1.1. The following definitions apply in this Agreement:

- a. **Direct Debit Agreement** means the PayChoice Direct Debit Agreement;
- b. **Hire Fees** means the fees to hire the facility;
- c. **Hire Period** means the period of time commencing on the date this Agreement is signed and continuing indefinitely unless terminated earlier in accordance with this Agreement;
- d. **Minor** means a person who is younger than 18 years of age;
- e. **Participants** means any persons entering the Facility as a result of or in connection with your hire of the Facility;
- f. **Privacy Policy** means The Baller Factory privacy policy which is available on our website at www.theballerfactory.com.au;
- g. **Prohibited Conduct** means any conduct which:
 - is disrespectful or offensive;
 - interferes with the amenity of the Facility or enjoyment of the Facility by other members, visitors or staff;
 - is threatening, dangerous or causes injury to other members, visitors or staff;
 - interferes with, obstructs or otherwise prevents our staff, contractors or agents from performing their work;
 - misuses or causes damage to the Facility, our equipment or any property of ours or another third party;
 - fails to comply with any requirement or reasonable request or direction given by us or our staff or is in breach of a policy or directive adopted by us.
- h. **Prohibited Items** means:
 - alcohol;
 - illegal substances including controlled, dangerous or illicit drugs;

- drones or other types of aerial vehicles;
- glassware, glass bottles or breakable items of any kind;
- unauthorised temporary signage and promotional products;
- fireworks/flares/laser pointers or lights/smoke generators;
- confetti or shredded paper;
- balloons or other inflatable items;
- knives or other dangerous weapons;
- firearms, explosives, chemical, radioactive or biological substances;
- rollerblades/skates, skateboards, scooters, segways or bicycles;
- animals (other than guide/assistance dogs); and
- any other item that in our opinion could cause harm, injury or public nuisance or otherwise compromise the safety and security of members, visitors or staff.

2. Terms and Conditions

- 2.1. Your hire of the Facility is governed by the terms and conditions contained in this Agreement or as varied from time to time in accordance with this Agreement.
- 2.2. You may use the Facility only for the stated Purpose of Hire, the duration of hire in your booking and for the agreed number of Participants.
- 2.3. Your hire bookings are non-transferable.
- 2.4. You agree that you are responsible for ensuring that all Participants at the Facility comply with the conditions of hire set out in this Agreement.
- 2.5. We may sometimes change our terms and conditions. This includes changing the Facility's opening hours, its services and facilities and hire fees. Sometimes, we may also close the Facility for refurbishment. The most up-to-date terms and conditions always apply. You can find copies on our website <https://www.theballerfactory.com.au>.

3. Hire Fees

- 3.1. You agree to pay all Hire Fees upfront for adhoc hire arrangements.
- 3.2. In the case of an ongoing hire arrangement:
 - (a) You agree to pay all Hire Fees for the Hire Period as set out in this Agreement and agree to be bound by the direct debit terms and conditions as described in the Direct Debit Agreement.
 - (b) All Agreement fees include goods and services tax (GST). Your fees will change in line with any government GST rate changes.
 - (c) If we or our payment provider cannot withdraw the Hire Fees from your account (for example there is not enough money in your account or your account has changed) it may dishonour the withdrawal and a dishonour fee of \$10.00 will apply.
 - (d) In the case of an unsuccessful payment the debit may be added to your next fortnightly debit. You will not be able to continue to hire the Facility if two consecutive fortnightly debits are rejected.
 - (e) You acknowledge and agree that we may change our payment provider and that we and/or the current payment provider may, in their sole discretion, assign or novate all existing Direct Debit Agreements to a new payment provider. In the event that we or the current payment provider assigns or novates the existing Direct Debit Agreements to a new payment provider, you consent to us or the current payment provider providing your personal information (including, but not limited to your payment details, to our new payment provider) in accordance with this Agreement and our Privacy Policy.

4. General Conditions of Entry to the Facility

- 4.1. You must ensure that all Participants comply with the terms set out in this clause 4 and you acknowledge you are responsible for the actions of your Participants.
- 4.2. No Participant may enter or remain at the Facility without your supervision.
- 4.3. You must not bring into the Facility any Prohibited Items.

- 4.4. In addition to any of our rights specified above, we reserve the right to:
 - (a) search you or your property to determine whether you have a Prohibited Item;
 - (b) require you to surrender a Prohibited Item; and/or
 - (c) remove any Prohibited Item from your possession or control and retain or dispose of such item.
- 4.5. You must not engage in Prohibited Conduct at the Facility.
- 4.6. The Facility is a smoke free venue. You must not smoke any form of cigarette (including electronic cigarettes) in any part of the Facility. You may smoke in the car park provided you do not smoke within 5 meters of the entrances to Facility or a neighbouring business in the complex.
- 4.7. You must not enter the Facility or use any of our equipment if you are under the influence of alcohol or drugs.
- 4.8. You must not engage in any type of promotional activities or solicit for business or conduct any type of business at the Facility unless otherwise agreed by us.
- 4.9. All Participants, members and guests must wear suitable clothes and enclosed sports shoes in the Facility and comply with any signage or reasonable directions of our staff. We do not allow clothes with offensive images or inappropriate advertising.
- 4.10. You must stay in the area you have booked when in the Facility and not interfere with the bookings of others.
- 4.11. No access will be granted to the Facility without a valid booking.
- 4.12. You must only access the Facility during the times of your booking and leave when your booking time has finished.
- 4.13. You must not sleep in the Facility at any time.
- 4.14. Proof of membership and identity must be available for inspection on demand. Acceptable forms of ID are limited to: Driver's License, Passport, Australian Birth Certificate, Australian Citizenship Document, School Picture ID or Working With Children Card.
- 4.15. We are not liable to you or the Participants for any personal property that is damaged, lost, or stolen while on or around the Facility including, but not limited to, a vehicle or its contents or any property left in the premises.
- 4.16. If you or the Participants cause damage to the Facility or any equipment (including the Dr Dish machine) you are liable to us for its cost of repair or replacement.
- 4.17. You and the Participants park in the Facility's car park at your own risk. To the extent permitted by law, we are not liable for any loss or damage to any vehicle or its contents.
- 4.18. You must use your best endeavours to exercise safely at the Facility.

5. Bookings

- 5.1. All bookings to hire the Facility and the equipment must be made using the online Gym Master system.
- 5.2. All bookings are subject to availability.
- 5.3. You understand and acknowledge that you are responsible for providing your own balls and other training equipment when hiring the Facility.
- 5.4. You agree to follow any required procedure for use of the Facility and any of our equipment (including the standard operating procedures on the Dr Dish ball machine) and report any damage to or repairs required to info@theballerfactory.com.au.
- 5.5. Prior to hiring the Dr Dish ball machine, you must successfully participate in a scheduled Dr Dish orientation program and watch the instructional video.
- 5.6. The Dr Dish ball machine must not be operated by Minors under any circumstances.

6. Video and Audio Surveillance

- 6.1. For security and safety purposes, we use video and audio surveillance equipment in appropriate areas on a 24 hour basis.
- 6.2. By accepting this Agreement and entering our Facility you consent to (and agree to ensure the Participants agree to) being filmed and recorded for these purposes and understand that we will only use and store the images in accordance with our Privacy Policy.

- 6.3. We sometimes film or photograph the Facility for marketing and business-related material so it is possible you and/or your Participants will appear in the background. By signing your Agreement, you allow us to use your image and the images of the Participants in promotional and other business-related material.
- 6.4. While using the Facility, the capture of your memorable moments on your camera is welcomed. However, such photos, or videos must meet the following conditions:
 - (a) be limited to those of your family or friends and must not include anyone who does not consent to their image being photographed or filmed; and
 - (b) be used for personal use only (in any medium) and not used for commercial exploitation, advertising, sale or distribution without our prior written approval.
 - (c) No photography, recording or filming is permitted in the bathroom at the Facility.

7. Risk Warning

- 7.1. We warn that whilst you are at the Facility and using our equipment, you and your Participants are at risk of suffering physical harm or personal injury including broken bones, soft tissue injuries, joint injuries, permanent disability or death. These injuries may occur but are not limited to:
 - (a) slipping on wet flooring;
 - (b) colliding with equipment, or others at the Facility;
 - (c) engaging in strenuous exercise and activities; or
 - (d) incorrect use of equipment.
- 7.2. You acknowledge that any such injury may result not only from your actions but from the action, omission or negligence of others.
- 7.3. You acknowledge that whilst every attempt is made to ensure that the Facility and equipment provided by us are safe, there are some significant and inherent risks involved, and you agree that you are participating voluntarily at your own risk and responsibility, thereby exposing yourself to certain risks including any risk to your Participants.
- 7.4. You hereby represent to us and our directors, officers, employees, contractors and agents that, to the best of your knowledge, you and your Participants do not have any physical, medical or other disability or condition which may be affected or be aggravated by the use of the Facility.
- 7.5. In the event of any incident occurring at the Facility you agree to comply with our policies and procedures for dealing with and reporting such incidents.
- 7.6. If you or any of your Participants have any health or medical concerns, you must discuss them with your doctor before using the Facility.
- 7.7. To the extent permitted by law, we exclude any liability to you and your Participants in contract, tort, statute or in any other way for any injury, damage or loss of any kind whatsoever (including, without limitation, any liability for direct, indirect, special or consequential loss or damage), sustained by you and/or any other person, or for any costs, charges or expenses incurred by you, arising from or in connection with this Agreement and/or the services/products provided by us and/or any act or omission by us.
- 7.8. Use of the Facility is solely at your risk. You hereby indemnify us for all actions, suits, demands, costs and expenses we may incur or for which we may become liable arising out of or in connection with the hire of the Facility by you, including any injury to, or loss suffered by, any Participants.

8. Facility Closures

- 8.1. If we are required by the state or federal government to temporarily close our Facility (**Closure Period**), your booking to hire the Facility will be cancelled and no payment will be required.
- 8.2. We may at any time and for any duration in our absolute discretion: close all or part of the Facility; modify access to the Facility; modify staffing or scheduling of activities; impose any measures or directives that are necessary to maximise the health and safety of our customers, visitors and staff including social distancing requirements, mask wearing mandates or density limits in all or any part of

the Facility, to comply with any law, regulation, directives, orders or directions by any government or governmental agency for public health and/or safety reasons (**Public Health & Safety Laws**).

- 8.3. We will notify you of such changes made under clause 8.2 as soon as is practicable by way of signage at the Facility and/or any other method of communication determined by us.
- 8.4. You must comply with any of the measures adopted by us to ensure compliance with the Public Health & Safety Laws. We request that you and/or your Participants do not enter the Facility if you feel unwell or have an infection or contagious illness.

9. Your Right to Cancel

- 9.1. You may cancel your hire agreement by 2 weeks prior written notice to membership@theballerfactory.com.au.
- 9.2. You may terminate your hire agreement at any time on the following basis:
 - (a) for reason of permanent sickness or physical incapacity which prevents you from using the Facility, your request must be accompanied by a medical certificate evidencing such permanent sickness or physical incapacity; and
 - (b) In the event of death, your estate must provide written evidence in the form of a death certificate and all unused Hire Fees will be refunded.
- 9.3. You will not incur any financial obligations under this Agreement on and from the next business day from the date of receipt by us of written notice of termination.

10. Our Right to Restrict or Terminate

- 10.1. We may immediately restrict or terminate any bookings and this agreement at any time on the following basis:
 - (a) concern for your health and/or safety; or
 - (b) non-compliance, improper or harmful conduct engaged in by you.
 - (c) you fail to make any payments of your Hire Fees;
 - (d) we reasonably suspect that you are engaging in illegal activity in the Facility;
 - (e) you fail to follow any of the policies or rules, or violate any part of this Agreement; or
 - (f) your conduct is improper or harmful to our best interests or those of our members.

11. Obligations on termination or cancellation

- 11.1. You will cease to have access to the Facility. Any money owing to us remains immediately due and payable and we will deduct the amount outstanding from any refund which you may be eligible. If there is not enough money to cover the amount owing to us, you must pay the balance of the amount owing.
- 11.2. Upon termination your election, you may continue to hire the Facility for any period that you have paid in advance. You will cease to have access to the Facility once any period you have paid in advance expires.
- 11.3. Termination or expiration of this Agreement shall be without prejudice to the rights of each party against the other in respect of anything done or omitted under this Agreement prior to such termination or expiration.

12. General

- 12.1. We may assign or novate our rights under this Agreement at any time without your prior consent. We will provide you with notice in writing if this occurs.
- 12.2. We collect all personal information that is reasonable and necessary for us to allow you to access our facilities, equipment and services. We also collect and use the personal information for the purpose of contacting and communicating with you, for our internal record keeping and for marketing in accordance with our Privacy Policy.

- 12.3. You are responsible to ensure that all personal information given to us is accurate. If you believe that any information we hold pertaining to you is inaccurate, out of date, incomplete, irrelevant or misleading, please contact us. We rely upon you advising us when your personal information changes. We will endeavour to promptly correct any information found to be inaccurate, incomplete or out of date.
- 12.4. We are not responsible if you are unable to use our facilities, equipment or services due to any circumstances that are beyond our control.
- 12.5. If any term or condition of this Agreement is or becomes void, illegal or unenforceable, that term or condition is severed and the rest of the Agreement will remain in full force.
- 12.6. If we do not enforce our rights under this Agreement at any time, it does not constitute us waiving any of our rights and we may enforce those rights at any time in the future.
- 12.7. This Agreement is governed by the laws of the State of South Australia. The parties submit to the jurisdiction of the Courts of that place.

Executed as an agreement on _____ by:

Hirer

.....
Witness

.....
Hirer Signature

.....
Name of Witness (print)

.....
Name of Hirer (print)

The Baller Factory Pty Ltd

.....
Authorised representative

.....
Name of authorised representative (print)