



NCM

MOTORSPORTS PARK

**DRIVING CLUB
MEMBERSHIP AGREEMENT**

NCM MOTORSPORTS PARK DRIVING CLUB

MEMBERSHIP AGREEMENT

This Motorsports Club Membership Agreement (the "Agreement") when signed by the undersigned membership applicant ("Member") and accepted by the NCM Motorsports Park, Inc. a corporation organized and existing under the laws of the Commonwealth of Kentucky (the "Company" or "Club") shall govern the membership rights of Member in the Club and the contractual relationship between Member and the Company. This Agreement consists of this Membership Agreement, the Rule and Regulations, the Membership Plan, and the Exhibits attached hereto, all of which are hereby incorporated herein by reference and shall constitute the full agreement between the Company and Member with respect to Member's membership rights in the Club and Member's use and access to the Club Facilities. All capitalized terms used in this Agreement and not otherwise defined herein shall have the same meanings as they have in the Membership Plan.

SECTION I PAYMENT OF DUES, FEES, AND CHARGES

The Member shall timely pay to the Club the annual dues (as set forth in Exhibit A hereto), applicable membership fees, and charges together with any and all applicable sales tax, and/or other taxes with respect to the payment of dues, fees and/or charges. The current amount of fees and charges is described on a separate Schedule of Dues, Fees and Charges and is subject to change in the Club's sole and absolute discretion from time to time. The Member is also responsible for the payment of all fees and charges incurred by Immediate Family Members, and Member's guests. The Club reserves the right to charge Member a deposit in advance, such deposit determined by the Club in its sole discretion.

The Member may elect to have fees and charges (other than the Membership Initiation Fee) billed to a credit card on file with the Club and paid by the credit card company accordingly to the terms contained herein. The Member understands that the Member is obligated to keep a valid approved credit card on file with the Club at all times and the Member authorizes the Club to charge dues, fees, and charges which are not paid within thirty (30) days of when they are first billed to such credit card. The Member also understands that the Member is responsible for any amounts that are not paid by the credit card company, and if applicable, the bank or other financial institution. Member agrees to pay directly to the Club any amounts not paid by the credit card company or received from the bank or other financial institution account as contemplated herein within ten (10) days of receipt of written notice from the Club. If not paid within seven (7) days after written notice from the Club, a late payment charge per annum determined by the Club from time to time (but not to exceed the maximum amount permitted by law) shall begin to accrue from the date the amount became delinquent until payment in full. Member may also be charged a reinstatement fee at the discretion of the Club to reactivate an account once it is deemed delinquent. The Member is required to deliver to the Club upon the submission hereof, a completed Account Information Form, which is provided herewith as Exhibit B and incorporated herein by reference.

In the event that any amounts owed to the Club are not paid on a timely basis, the Member understands that the Member may, in addition to being subject to a late payment charge as set forth herein, be subject to certain disciplinary actions, in accordance with this Agreement and the Club's Rules and Regulations, including suspension or termination of membership privileges.

In the event the Member resigns from the Club, such resignation shall be effective on the first (1) day of the month following Club's receipt of such written resignation and the resigning Member shall be

obligated to pay and any all dues, fees, and other charges associated with Member's membership in the Club that accrued prior to the effective day of such resignation.

SECTION II INDEMNIFICATION; WAIVER AND RELEASE; ASSUMPTION OF RISK

MEMBER RESPONSIBILITY

The Member shall be legally responsible for all acts of (i) the Member, (ii) the Member's Immediate Family and (iii) all guests of the Member, the Member's Immediate Family Members in connection with their use of the Club Facilities or the Club premises or otherwise relating directly or indirectly to the Member's membership. Those persons described in numbers (ii) and (iii) of the foregoing sentence are individually referred to herein as a "Member User" and collectively "Member Users."

This provision shall include all Club Facilities, as they exist at the time the Member signs this Agreement and as shall be built, added, and/or modified in the future.

This provision applies for the entire time that Member belongs to the Club and thus constitutes both a present and future obligation. The Club is not obligated to have Member or Member Users sign additional releases or waivers for the provisions herein to be enforceable.

INDEMNIFICATION

The Member covenants and agrees Member shall indemnify, defend (with counsel reasonably acceptable to the Company), and hold harmless the Company and any third-party manager and designer of the Club Facilities engaged by the Company, their respective affiliates, their respective successors and assigns, and their respective shareholders, partners, directors, officers, members, managers, employees, consultants, representatives, and agents (collectively, the "Indemnified Parties") from any claims, losses, damage, costs, charges, liabilities or expenses (collectively, "Claims"), whether caused by the negligence of the Indemnified Parties or otherwise, arising directly or indirectly out of any act, action, neglect, and/or omission by the Member or the Member Users, including, but not limited to, their respective use of, or presence on or about, the Club Facilities or the Club premises or otherwise relating directly or indirectly to the Member's membership. The obligations set out in this paragraph are hereinafter referred to as the "Member's Indemnification Obligation".

THE MEMBER'S INDEMNIFICATION OBLIGATION SHALL EXTEND TO COVER CLAIMS CAUSED BY THE SOLE NEGLIGENCE OF THE INDEMNIFIED PARTIES

None of the Indemnified Parties shall be liable for any physical damage to any improvement on the Club premises or for the replacement or reconstruction thereof, or for any natural disasters or occurrences; inclement weather; utility disruptions; labor or material shortages; governmental action or inaction; or any other matter not within their control.

ASSUMPTION OF RISK

Each Member and Member User acknowledges that use of the Road Course (as defined in the Membership Plan), Karting Circuit, and related portions of the Club Facilities are hazardous and involves extraordinary risk of serious personal injury or death, as well as risk of damage to property. The Member, as well as each Member User, accepts and assumes all risks and responsibilities associated with use of the Club Facilities at the Club premises, or otherwise directly or indirectly associated with the Membership, including, but not limited to, all risks of bodily injury (including paralysis), death or damage to or other loss of property. This provision applies even if such bodily injury, death, or damage to or other loss of property is due to the sole negligence of one or more Indemnified Parties.

Each Member and Member User further acknowledges that if he or she makes or accepts the use of any vehicle, apparatus, equipment, facility, privilege, or service whatsoever owned, leased, made available or operated by any Indemnified Party, or participates in any contest, show, race, function, exercise, competition and/or other activity made available, operated, organized, arranged, and/or sponsored by an Indemnified Party, either on or off the Club premises, then such Member or Member User shall do so at his or her own risk.

RELEASE AND COVENANT NOT TO SUE

The Member, on behalf of such Member and all Member Users, hereby releases and agrees to hold all of the Indemnified Parties free and harmless from and against any and all Claims arising out of or incident to membership in the Club or use of the Club Facilities or the Club premises.

The Member, on behalf of such Member and all Member Users, releases, waives, discharges, and covenants not to sue any or all of the Indemnified Parties for any and all loss or damage, and any claim or demands therefor on account of injury to the person or property or resulting in death of the Member or Member Users whether caused by the negligence of the Indemnified Parties or otherwise while the Member or Member Users are in or upon the Club Facilities or the Club premises, and/or, driving, observing, or for any purpose or otherwise arising out of or incident to membership in the Club or use of the Club Facilities or the Club premises.

Member expressly agrees that the foregoing release and waiver is intended to be as broad and inclusive as is permitted by the law of the State of Kentucky.

No oral representations, statements, and/or inducements apart from the foregoing have been made by the Club.

CONSENTS, WAIVERS AND/OR RELEASES OF LIABILITY

The Member and each of the Member Users shall be obligated to sign and deliver to the Club such consents, waivers, and/or releases of liability and indemnities in the form requested by the Club from time to time. In the event of any inconsistency between the provisions of this Membership Agreement and the provisions contained in any such consent, waiver, release, and/or indemnity form, the provisions contained in the form shall control.

A failure to obtain such consent, waiver, release, and/or indemnification shall not relieve the Member of his/her obligations described herein on behalf of the Member and the Member Users.

LIMITATION OF LIABILITY

In no event will any of the Indemnified Parties be liable to any Member, Member User, or guest for any Claims whatsoever or any consequential, indirect, or special damages, under any legal theory or liability arising out of this Agreement or the use of or inability to use the Club Facilities. The foregoing limitations and exclusions apply to the greatest extent permitted by applicable law.

SECTION III LOSS AND/OR DESTRUCTION OF PROPERTY

Each Member as a condition of membership in the Club, and Member User as a condition of invitation to enter upon the Club premises and/or use the Club Facilities, assumes sole responsibility for his or her property. The Club, and/or any manager/operator of the Club and/or Club Facilities, shall not be responsible for any loss or damage to any personal property used or stored on the Club Facilities, whether in lockers, garages, or elsewhere. Any such personal property which may have been left at the Club premises for six (6) months or more without payment of storage thereon may be sold

by the Club, with or without notice, at a public or private sale, or may be otherwise disposed of, and the proceeds, if any, may be retained by the Club.

No person shall remove from the room in which they are placed or from the premises of the Club any property or furniture belonging to the Company or its affiliates, lessees, concessionaires, or other licensees without proper written authorization.

Each Member shall be responsible for all acts of the Member and his or her Member Users in connection with their use of the Club Facilities or the Club premises, or otherwise relating to such Member's membership. Each Member shall be liable for all Claims to the extent caused by such Member or his or her Member Users in their respective use of, or presence on or about, the Club Facilities or the Club premises.

SECTION IV ACKNOWLEDGMENT OF MEMBERSHIP RIGHTS

The Member acknowledges that membership in the Club permits the Member to use the Club Facilities in accordance with this Agreement, the Membership Plan, and the Rules and Regulations. Membership in the Club is not an investment in the Club or the Club Facilities and does not give Member a vested or prescriptive right or easement to use the Club Facilities. Membership in the Club does not provide Member with an equity or ownership interest or any other property interest in the Club, the Club Facilities, or the Club premises. Member acquires only a revocable license to use the Club Facilities in accordance with the terms and conditions of the Membership Plan, the Rules and Regulations and this Membership Agreement. All rights and privileges of Member under the Membership Plan, the Rules and Regulations and this Membership Agreement are subordinate to the lien of any mortgage or deed of trust encumbering the Club Facilities from time to time.

The Club reserves the right, in its sole discretion, to terminate, amend, modify, and/or supplement the Membership Plan and the Rules and Regulations, to reserve memberships, to add, issue, modify, terminate, and/or discontinue the offering of any type, category, and/or class of membership or dues category, to discontinue operation of any or all of the Club Facilities, to recall any membership at any time for any or no reason whatsoever, to convert the Club into a member-owned club, and to make any other changes in the terms and conditions of membership or in the Club Facilities or services available to Member.

The Company, for itself and on behalf of its successors and assigns, reserves the right to sell, merge, assign, convey, transfer, and/or otherwise dispose of any or all of its right, title, and interest in any of the Club Facilities to any party or parties. Upon any such sale, merger, assignment, conveyance, transfer or other disposition of any right, title, and interest in any of the Club Facilities, the transferring party shall be relieved of and released from any and all obligations under the Membership Plan, the Rules and Regulations, and each Membership Agreement then in effect, including, without limitation, this Membership Agreement; provided however, the purchaser or the surviving company acquires such right, title, and interest subject to the terms and conditions of the Membership Plan, the Rules and Regulations, and Membership Agreements then in effect and assumes the obligations of the transferring party thereunder.

The failure of any party to insist upon a strict performance of any of the terms or provisions of the Membership Plan, the Rules and Regulations, and/or this Membership Agreement, or to exercise any option, right, and/or remedy contained therein or herein, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right, and/or remedy, but the same shall continue and remain in full force and effect. No waiver by any party of any term or provision of the Membership Plan, the Rules and Regulations, or the Membership Agreement shall be deemed to have been made unless expressed in writing signed by such party. To the extent that any provision of the Membership Plan, the Rules and Regulations, and this Membership Agreement may be held to

be invalid or legally unenforceable by an arbitration panel or a court of competent jurisdiction, the remaining provisions thereof shall not be affected and shall be given full force and effect.

SECTION V MEMBERSHIP DOCUMENTS; ARBITRATION

The Member hereby acknowledges receipt of the Membership Plan and the Rules and Regulations and that the Member has read and understands them, and agrees to be bound by the terms and conditions thereof as the same may be amended, modified, and/or supplemented from time to time by the Club. The Member further acknowledges that the Member is not relying on any oral representations in acquiring a membership in the Club.

All issues and controversies arising out of this Membership Agreement shall be governed by the laws of the State of Kentucky without regard to conflict of laws principles. The parties hereto agree that the venue for any legal action arising out of this Membership Agreement or otherwise related to membership in the Club shall be settled exclusively by arbitration, conducted before a panel of three (3) arbitrators in Kentucky in accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrator's award in any state or federal court having jurisdiction over Warren County, Kentucky. The prevailing party in any arbitration or other dispute resolution shall be awarded attorneys' fees and costs.

SECTION VI REPRESENTATIONS AND WARRANTIES OF THE MEMBER

The Member hereby represents and warrants that Member has full power and authority to enter into this Membership Agreement. This Membership Agreement has been duly executed and delivered by the Member and, assuming due authorization, execution and delivery by the Company, constitutes the Member's valid and legally binding obligation enforceable against the Member in accordance with its terms, subject to the effect of any applicable bankruptcy, reorganization, insolvency (including, without limitation, all laws relating to fraudulent transfers), moratorium, or similar laws affecting creditors' rights generally, subject, as to enforceability, to the effect of general principals of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and subject to the effect of applicable securities laws and rights of indemnification.

The Member (a) is capable of bearing the economic risk of purchase of a Membership, including the possible loss of Member's entire Membership Initiation Fee, and (b) is personally qualified to evaluate and assess the risks, nature and other aspects of purchasing a Membership.

The Club may pledge or assign this Membership Agreement. Except as otherwise expressly set forth herein, Member may not assign or transfer any of Member's rights or delegate any of Member's duties or obligations hereunder without prior written consent of the Club in each instance.

If married, the signatures of both spouses are required. The membership acquired hereunder shall be issued in the name or names as indicated below who shall be the "Member" for purposes hereof:

Dated

Signature - Member

Name

Dated

Spouse's Signature

Name

This Membership Agreement, including the Exhibit hereto shall not be binding on the Company until the acceptance below is signed.

ACCEPTED BY

NCM MOTORSPORTS PARK, INC., a Kentucky corporation

By: .

Name:

Title: _____

Dated: _____

Exhibit A

Membership Benefits and Pricing

Exhibit A

Membership Benefits and Pricing *Individual Membership*

PURCHASE OF MEMBERSHIP

The Member desires to acquire a membership in the Club in the category indicated below. The applicant understands that membership is contingent on the Club accepting his/her application for Membership and Club's execution of the Membership Agreement.

<u>MEMBERSHIP CATEGORY</u>	<u>MEMBERSHIP INITIATION FEE</u>
Individual Membership	\$3,500.00

The Member hereby agrees to pay to the Club the Membership Joining Fee stated above, together with any applicable sales tax, or other taxes with respect to the payment of the Membership Joining Fee. Such Membership Joining Fee shall be paid upon execution of this Agreement

ANNUAL DUES: \$3,500.00 ("Annual Dues")

SPECIAL BENEFITS OF INDIVIDUAL MEMBERSHIP

As an Individual Member, I acknowledge that I am receiving the following benefits:

- Thirty-two (32) Road Course Driving Club days annually;
- Access to Club Facilities;
- No usage fee for Member and Member Users' use of Club Facilities;
- Access to Member-Only Hospitality Area, Facebook Group, eNewsletters, Social Functions and Events;
- Access to private driver coaching with Club resident Pro-Driver Andy Pilgrim, subject to additional fees;
- On-Site concierge vehicle maintenance, subject to additional fees.

Scheduling/Registration: All access is subject to and may be limited by weather conditions, and in the sole and exclusive discretion of the Club and Road Course Manager. The Club Events are generally scheduled consistently throughout the year. Club Events will be published on the Club website. Notifications may also be sent out via email. Other than the Annual Dues, there is no cost to Members to participate. The Club will strive to keep consistent Club Events on the calendar, but there may be circumstances that necessitate that Club Events be canceled during a particular week and moved to the week prior or after. In this event, Members will be provided equal or greater time in the aggregate. All Club Events and other event scheduling will be done in the Club's sole discretion.

Guest Access: Members are permitted to bring guests to Club Events on a limited basis and as set forth in the Rules and Regulations. Members are responsible for ensuring each of their guests know and understand all the Club Rules and Regulations. All guests **MUST** sign a Club Release and Waiver of Liability, Assumption of Risk and Indemnity Agreement prior to participating or being present at any event at the Club. Only accompanied guests are permitted to drive on the Road Course after approval of the Road Course Manager.

Exhibit A

Membership Benefits and Pricing ***Corporate/Group Membership***

PURCHASE OF MEMBERSHIP

The Member desires to acquire a membership in the Club in the category indicated below. The applicant understands that membership is contingent on the Club accepting his/her application for Membership and Club's execution of the Membership Agreement.

<u>MEMBERSHIP CATEGORY</u>	<u>MEMBERSHIP INITIATION FEE</u>
Corporate Membership	\$10,000.00

The Member hereby agrees to pay the Club the Membership Initiation Fee stated above, together with any applicable sales tax, or other taxes with respect to the payment of the Membership Initiation Fee. Such Membership Initiation Fee shall be paid upon execution of this Agreement.

ANNUAL DUES: \$7,000 as set forth below ("Annual Dues")

SPECIAL BENEFITS OF CORPORATE MEMBERSHIP

As a Corporate Member, I acknowledge that I am receiving the following benefits:

- Access for four (4) individuals affiliated with my business or group;
- Thirty-two (32) Road Course Driving Club days annually;
- Access to full use of Club Facilities;
- No usage fee for Member and Member Users' use of Club Facilities;
- Access to Member-Only Hospitality Area, Facebook Group, eNewsletters, Social Functions and Events;
- Access to private driver coaching with Club resident Pro-Driver Andy Pilgrim, subject to additional fees;
- Access to on-site concierge vehicle maintenance, subject to additional fees;
- Listing on Company website with a link to Corporate Member's website;
- Display plaque for Corporate Member
- Preferred discounts on Club Facility rental meeting space.

Scheduling/Registration: All access is subject to and may be limited by weather conditions, and in the sole and exclusive discretion of the Club and Road Course Manager. The Club Events are generally scheduled consistently throughout the year. Club Events will be published on the Club website. Notifications may also be sent out via email. Other than the Annual Dues, there is no cost to Members to participate. The Club will strive to keep consistent Club Events on the calendar, but there may be circumstances that necessitate that Club Events be canceled during a particular week and moved to the week prior or after. In this event, Members will be provided equal or greater time in the aggregate. All Club Events and other event scheduling will be done in the Club's sole discretion.

Guest Access: Members are permitted to bring guests to Club Events on a limited basis and as set forth in the Rules and Regulations. Members are responsible for ensuring each of their guests know and understand all the Club Rules and Regulations. All guests **MUST** sign a Club Release and Waiver of Liability, Assumption of Risk and Indemnity Agreement prior to participating or being present at any event at the Club. Only accompanied guests are permitted to drive on the Road Course after approval of the Road Course Manager.

Exhibit B

Membership Application

Name _____ Birth Date _____

Spouse/SO Name _____ Birth Date _____

_____ Anniversary Date _____

Mailing Address _____

Billing Address (if different from Mailing Address) _____

Telephone _____ Telephone _____
Primary Secondary Cell Phone

E-mail Address _____

Spouse/SO E-mail Address _____ Spouse's Cell Phone _____

Applicant's Car Make/Model/Year _____

Applicant's Driving Experience (add additional pages if necessary)

Applicant's Race License Held

Immediate Family Members (Spouse or Significant Other and children, and step-children under the age of 26 of the Member, spouse or Significant Other:

Name

Birth Date

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BUSINESS

Member's Company Name

Title

Business Address

Telephone ()

Years in Present Employment

Retired

E-mail Address

Website

Spouse's Company Name

Title

Spouse's Business Address

Telephone ()

Years in Present Employment

Retired

E-mail Address

Website

REFERENCES (Clubs and Personal)

(Include a total of 3)

1. Name of Club/Organization

Year Accepted

Type

Address

Telephone ()

Contact Person

Present Member

2. Name of Club/Organization

Year Accepted

Type

Address

Telephone ()

Contact Person

Present Member

3. Name

Address

Years Known

Telephone ()

4. Name

Address

Years Known

Telephone ()

The Member authorizes the disclosure and release of information to the Company for investigating the Member's qualifications for membership in the Club, including without limitation, law enforcement records and credit history, and agrees to hold the persons or entities providing such information, as well as the Company, any manager of the Club Facilities, their respective affiliates, their respective successors and assigns and their respective directors, officers, partners, members, managers, shareholders, employees, representatives and agents, harmless from any and all such acts.

All information contained above, to the extent such information is confidential, will be kept confidential by the Company except as otherwise required by law, or in connection with legal process, or as may be necessary to obtain law enforcement records, credit history reports and other investigatory information as contemplated above. Such confidential information can be shared with advisors, consultants, attorneys, agents and representatives of the Company and any manager of the Club Facilities for purposes of evaluating the Member for membership. The Company will exercise the same degree of care with respect to non-disclosure of confidential information contained herein as it would exercise with respect to its own confidential information.

Exhibit C

ACCOUNT INFORMATION FORM – MUST BE COMPLETED

Please provide the required information on the Account Information Form to be submitted to the Club with this Membership Agreement for the desired option.

- ☐ **Credit Card Authorization.** The Member authorizes all fees and charges be billed to the Member's credit card listed on file with the Club or its designated third-party provider who meets PCI security standards and hereby authorizes such billing by signing below.

The Member certifies that the below listed card is issued to the Member and agrees that all disputes on the credit card account relating to the Club will be promptly brought to the Club's attention.

Credit Card Type _____ Card Number _____

Card Security Code (CSC) _____ Exp. Date _____

Billing Zip Code _____

Name on Card _____

Signature _____