



PARTICIPATION AGREEMENT IN SUBCONTRACTOR ASSESSMENT PROGRAM (SAP)

**Applicant Company Information**

I \_\_\_\_\_ a duly authorized representative of  
(Insert Name)

\_\_\_\_\_  
(Name of Company) (Street Address, City, State, and Zip Code)

\_\_\_\_\_  
(E-mail Address)

\_\_\_\_\_  
(Phone – Direct Line)

hereinafter referred to as the Applicant, do hereby agree to be assessed under a voluntary National Creditors Bar Association SUBCONTRACTOR ASSESSMENT PROGRAM(SAP). The assessment shall include verification of the company’s internal controls as outlined in Exhibit A.

**1. The Applicant agrees that with respect to:**

- a. Laws, Regulation, Statutes - To conform with all applicable Federal, State, and local government laws, regulations, or statutes, and any applicable professional standards.
- b. Assessment Request - To contact and schedule the assessment with the NCBA designated assessment firm, Crowe LLP (“Crowe” or “Assessment firm”). The request for the initial assessment will be made no later than two (2) weeks after the submission date included on this application. The initial request will be approved by the NCBA and then routed to Crowe as explained in NCBA communications.
- c. Records - To maintain all records required by the specific assessment program as outlined in Exhibit A. The Applicant shall make these records available to the NCBA designated assessment firm.
- d. Access to Facilities - To grant permission for NCBA designated assessment firm personnel to enter any and all facilities covered by the specific assessment program for the purposes of conducting the on-site assessment. This includes the initial assessment and any follow-up as may be required by the program.
- e. Payment - To pay by credit card, check, draft, or money order drawn to the order of the National Creditors Bar Association for the services covered herein on or before the due date specified on the billing statement. Charges for assessment include, but are not limited to, the assessment fee as listed in the fee schedule and travel expenses for the initial assessment. Any follow-up visit(s) travel costs that may be required by the program are at an additional cost as

listed in the fee schedule. Failure to pay for services will result in assessment completion recognition being denied.

## **2. Factors for Participant Consideration:**

- a. Perform Assessment– The intention is for Crowe to provide objective third-party assessment(s) of the Applicant’s specific Factors using industry recognized assessment principles. This is further outlined in Exhibit A.
- b. Opening & Exit Interviews – The applicant will discuss with Crowe the assessment process prior to and then report the results and observations after the assessment is completed. Crowe provide a timeframe in which a copy of the completed assessment report or checklist will be provided to the participant and the NCBA.
- c. Reports – The NCBA will issue to the Applicant reports of all assessments and evaluations of the Applicant, including any deficiencies found.
- d. Confidentiality – In its agreement with the NCBA, Crowe has agreed to consider and treat any trade secrets or confidential information as proprietary and confidential to the Applicant, the NCBA, and any customers or prospective customers of the Applicant. The assessment report, working papers, and artifacts provided to Crowe by the Applicant may only be provided to the parties named above, and are the Confidential Information of Crowe. Except as otherwise permitted by this Agreement or as agreed in writing, Applicant may not disclose to third parties the contents of this Agreement or any information provided by or on behalf of the other that ought reasonably to be treated as confidential and/or proprietary. Applicant, NCBA and Crowe each agree that either party may disclose such information to the extent that it: (i) is or becomes public other than through a breach of this Agreement, (ii) is subsequently received by the recipient from a third party who, to the recipient's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information, (iii) was known to the recipient at the time of disclosure or is thereafter created independently, (iv) is disclosed as necessary to enforce the recipient's rights under this Agreement, or (v) must be disclosed under applicable law, regulations, legal process or professional standards.
- e. Issuance of Certificate of Completion and Sharing Assessment Results – The NCBA will issue a certificate to the Applicant only when the Applicant meets the NCBA acceptance criteria as published by the NCBA for each scope being assessed. Applicant authorizes the NCBA to provide checklists and other assessment results to Applicant’s customers upon written customer’s request.

## **3. It is mutually agreed that with respect to:**

- a. Length of Service - That the assessment results for NCBA’s SUBCONTRACTOR ASSESSMENT PROGRAM (SAP) are valid for one year from the date of the initial assessment, provided that the NCBA acceptance criteria is met on both the initial assessment and any follow-up assessments that may be required by the program. This agreement shall remain in

effect for the length of time the Applicant remains a participant in the NCBA's SUBCONTRACTOR ASSESSMENT PROGRAM (SAP).

b. Maintaining Certificate of Completion Recognition - That a company's information will only remain on the NCBA website if all assessments show satisfactory adherence to the program. If the passing score is not achieved, the Applicant's information will be removed from the website until the Applicant remediates and obtains the minimum score on all appropriate scopes of the assessment as verified by Crowe.

c. Contract Termination - From time to time, businesses decide that an agreement does not continue to meet their needs. Accordingly, we mutually agree that either party can terminate this engagement upon delivery of written notice thirty (30) days prior to the date of the desired termination. Applicant agrees to pay for all work performed up to the full amount of the contract.

d. Applicant's Cooperation – For the NCBA and its Assessment firm to provide Services effectively and efficiently, Applicant agrees to provide information requested timely and to make available to the NCBA and its Assessment firm any personnel, systems, premises, records, or other information as reasonably requested to perform the Services. Access to such personnel and information are key elements for the successful completion of Services.

e. Report Distribution – The results of the analysis, report, communications and certificate may be shared with the Applicant for the Applicant's internal use only. The Applicant may not distribute any deliverable from this project to any of its clients. Any clients wishing to obtain the report must obtain this from the NCBA directly.

f. Personal Information - If the NCBA or its Assessment firm holds or uses Applicant information that can be linked to specific individuals who are Applicant's customers or employees ("Personal Data"), the NCBA and its Assessment firm will treat it as confidential as described above and comply with applicable US state and federal law and professional regulations in disclosing or using such information to carry out the Services. The NCBA and its Assessment firm have implemented and will maintain physical, electronic and procedural safeguards reasonably designed to (i) protect the security, confidentiality and integrity of the Personal Data, (ii) prevent unauthorized access to or use of the Personal Data, and (iii) provide proper disposal of the Personal Data (collectively, the "Safeguards"). Applicant warrants (i) that it has the authority to provide the Personal Data to the NCBA in connection with the Services, (ii) that Applicant has processed and provided the Personal Data to the NCBA in accordance with applicable law, and (iii) will limit the Personal Data provided to the NCBA to Personal Data necessary to perform the Services. To provide the Services, Applicant may be asked to show the NCBA Personal Data consisting of protected health information or other data that, if disclosed without authorization, would trigger notification requirements under applicable law ("Restricted Personal Data"). However, under no circumstances should Applicant ever provide the NCBA with a copy of personal data. If Applicant provides this data it will be considered a breach of the agreement.

- g. Benchmarking - Applicant hereby acknowledges and agrees that the NCBA or its Assessment firm may aggregate Applicant content and data with content and data from other clients ("Data Aggregations") for purposes including, without limitation, product and service development, commercialization, industry benchmarking, or quality improvement initiatives. The NCBA will scrub Applicant content and data so that Applicant sensitive information is not disclosed and so that all data is anonymized.
- h. No Punitive or Consequential Damages – Any liability of the NCBA or its Assessment firm will not include any consequential, special, incidental, indirect, punitive, or exemplary damages or loss, nor any lost profits, goodwill, savings, or business opportunity, even if the NCBA had reason to know of the possibility of such damages.
- i. Limit of Liability – Except where it is judicially determined that the NCBA or its Assessment firms performed its Services with gross negligence or willful misconduct, the NCBA's liability will not exceed fees paid by Applicant to the NCBA for the portion of the work giving rise to liability. A claim for a return of fees paid is the exclusive remedy for any damages. This limit of liability will apply to the full extent allowed by law, regardless of the grounds or nature of any claim asserted, including, without limitation, to claims based on principles of contract, negligence or other tort, fiduciary duty, warranty, indemnity, statute or common law. This limit of liability will also apply after this Agreement.
- j. Indemnification – In the event of a legal proceeding or other claim brought against the NCBA or its Assessment firm by a third party, except where it is judicially determined that the NCBA or its Assessment firm performed Services with gross negligence or willful misconduct, Client agrees to indemnify and hold harmless the NCBA and its Assessment firm and its personnel against all costs, fees, expenses, damages and liabilities, including attorney fees and any other fees or defense costs, associated with such third party claim, relating to or arising from any Services performed or work product provided by the NCBA or its Assessment firm that Client uses or discloses to others or this Agreement or program generally. This indemnification is intended to apply to the full extent allowed by law, regardless of the grounds or nature of any claim, liability, or damages asserted, including, without limitation, to claims, liability or damages based on principles of contract, negligence or other tort, fiduciary duty, warranty, indemnity, statute or common law. This indemnification will also apply after termination of this Agreement.
- k. No Transfer or Assignment of Claims – No claim against NCBA or its Assessment firm, or any recovery from or against NCBA or its Assessment firm, may be sold, assigned or otherwise transferred, in whole or in part.
- l. Time Limit on Claims – In no event will any action against the NCBA or its Assessment firm, arising from or relating to this engagement letter or the Services provided relating to this engagement, be brought after the earlier of 1) two (2) years after the date on which occurred the act or omission alleged to have been the cause of the injury alleged; or 2) the expiration of the applicable statute of limitations or repose.

M. **Waiver, Release & Covenant Not to Sue.** Applicant, by signing below, hereby waives and releases Crowe and the NCBA, and their respective directors, officers, employees, attorneys, affiliates and subsidiaries, from any and all claims, offsets, defenses and counterclaims of which Applicants are aware, such waiver and release being with full knowledge and understanding of the circumstances and effect thereof and after having consulted legal counsel with respect thereto and arising out of either directly or indirectly, the Assessment, Certificate and/or anything related to the Subcontractor Assessment Program.

N. **Third Party Beneficiary.**  
Assessment firm, Crowe LLP, is a third party beneficiary of this Agreement.  
Approved and agreed by the undersigned authorized Applicant representative:

Name of Applicant (Print): \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

NCBA Executive Director

Name(Print): \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

(OPTIONAL) The Applicant requests NCBA to release assessment report(s) to:

Other Parties- The participant, if accepted by NCBA, designates the assessment documents, as outlined by Exhibit A be sent to:

\_\_\_\_\_ (Name of Company/Representative)

\_\_\_\_\_ (Email Address)

\_\_\_\_\_ (Phone)

\_\_\_\_\_ (Name of Company/Representative)

\_\_\_\_\_ (Email Address)

\_\_\_\_\_ (Phone)

\_\_\_\_\_ (Name of Company/Representative)

\_\_\_\_\_ (Email Address)

\_\_\_\_\_ (Phone)

## **Exhibit A: Program Description**

The NCBA will provide, as a benefit to its members and their subcontractors, a subcontractor oversight program.

### Purpose

Many of the NCBA members' clients require our members to conduct controls assessments on their Subcontractors (e.g., data vendors, letter vendors, process servers, asset locators, etc.). This ensures the proper protection of the client information provided to the Subcontractors so the Subcontractors can perform its services. Performing audits are outside our members' core competencies. In addition, Subcontractors are subject to many assessments, creating inefficiency and extra cost.

### Overview

Subcontractor is contracting with the NCBA to purchase an assessment service from the NCBA and use the results of this service to satisfy the needs of NCBA members that require due diligence. When Subcontractors purchase this assessment, it will be executed by a firm selected by the NCBA and include a point-in-time controls assessment. The scope of the assessment will include:

- Contracts/ NDA's
- Human Resources (HR)
- Physical Security
- Insurance Requirements
- Information Security
- Phone Calls (if applicable)
- Incident Reporting
- Data Recovery Plan (DRP)
- Licensing (Law Firms Only)

The approach will be as follows:

1. Subcontractor Planning - The Subcontractor signs up for an assessment, confirming whether they are willing to share information remotely. The Subcontractor fills out an online questionnaire and provides documents online. The Subcontractor chooses an assessment date. An assessor is assigned.
2. Assessment - The Subcontractor and assessor conduct a 30-minute kickoff call to plan for the assessment. On the assessment date, interviews are conducted either online or in person with a 4-6 hour session. A list of open items is provided.
3. Reporting - The assessor identifies Control Gaps in a report, which goes through a quality control process. Additional questions for the Subcontractor may be generated during quality control. The Subcontractor responds to the report online with their action plan, including if they will fix and the timing. If a NCBA member requests the report, they will receive a current list of items and action plans, if applicable.
4. Remediation Tracking - The system will prompt the vendor to provide updates on action plans quarterly, confirming that they are on track, and allowing them to close action plans as completed. If contracted, the remediation team will inspect artifacts provided to confirm closure.

As part of the assessment, the Applicant will be asked to provide the following artifacts:

- A sample of supplier contracts
- A sample of background checks
- A sample of Employee Handbook acknowledgment
- A sample termination report
- Access Management policies and procedures
- Physical Security policy and procedures
- Sample visitor log
- A sample certificate of destruction (if third party is used for shredding)
- Insurance Policy
- Information Security Policy
- Sanitized network diagram
- Data Loss Prevention Policy
- Sample Access Review
- Acceptable Use Policy
- Customer Contact Policy and Procedure
- Incident Response Policy and Procedure
- Copy of the latest incident log
- Disaster Recovery (DR) Policy and Procedure
- Business Continuity Plan (BCP)
- Copy of the latest annual DR test

**Deliverables**

The artifacts that will be retained by the assessment firm, provided to the NCBA and provided to the clients of the Applicant that are approved by the Applicant include:

1. Assessment working papers and notes
2. Key correspondence and emails
3. Assessment report
4. All artifacts provided by the Applicant to the assessment firm
5. Documentation on remediation of assessment findings

**Cost**

Initial Sign-up fee per Audit:	\$4,400.00
Year 2:	\$2,500.00
Additional Options:	
Onsite Inspection	\$1,000.00 (inclusive of travel expenses)
Remediation Tracking and Resolution Vendor	\$1,750.00
Delays, Reschedules, Cancels, No show	\$1,000.00 per occurrence
Expedited Timeline	\$1,000.00*

Consulting, Ad-hoc requests:

Billed as incurred, \$200-\$400/hr. Pricing to be provided as requests are made.

\*An expedited assessment means that the assessment firm will accommodate a last-minute scheduling request of 1-3 weeks and will issue the report 7 business days after the assessment fieldwork.