

## CONSULTING AGREEMENT

Consulting Agreement dated as of March 22, 2021 by and between **Institute for Development of Freedom of Information (IDFI) (“Consultant”)** and **International Coalition of Sites of Conscience, 55 Exchange Place, Suite 404, New York, NY USA 10005 (“ICSC”)** (Consultant and ICSC sometimes are referred to in this agreement separately as a “Party” and together as the “Parties”).

### 1. CONSULTING SERVICES

- 1.1. Purpose. ICSC hereby retains the Consultant for the purpose of collecting and compiling responses from three+ organizations in their region with digital archiving expertise, produce a report of approximately eight (8) pages summarizing key findings from regional responses to the questionnaire and Consultant’s own expertise on the subject, and prepare a brief presentation of the Consultant’s findings (the “Project”). Consultant hereby accepts, agreeing to perform the consulting services described in Attachment A to this agreement (the “Services”) during the period starting the date of this agreement and ending the Termination Date (as defined below in Section 2).
- 1.2. Consultant’s Qualifications. Consultant agrees to give ICSC the benefit of their special knowledge, skill and experience in a professional and diligent manner in accordance with applicable laws, rules and regulations. Consultant shall perform the Services on time and in a good, efficient and proper manner and shall not perform the Services for any other entity to the extent that any possible conflict of interest with ICSC might result.
- 1.3. Expenses. Consultant has full responsibility for providing all items Consultant may need to carry out the Services, including but not limited to equipment, materials, space, tools and books. Consultant confirms that ICSC has retained Consultant in reliance on their representation that he has all the skills, knowledge, expertise and experience necessary to perform the Services as required under this agreement.

### 2. TERM OF SERVICES

This agreement is effective for the term (the “*Written Agreement Term*”) from March 22, 2021 through and including the later of (i) June 30, 2021, or (ii) such other date as the Parties may agree in writing. For purposes of this agreement, *Termination Date* shall mean the last day of the *Written Agreement Term*; provided, however, that if ICSC terminates this agreement pursuant to Section 10 as a result of an event of default, the *Termination Date* shall be the date of termination set forth in ICSC’s Section 10 notice of termination.

### 3. COMPENSATION

ICSC shall pay Consultant a consulting fee of \$1,200 USD for services performed under this agreement, payable as set forth in Attachment A (the “*Fee*”). ICSC and Consultant agree that the *Fee* is reasonable compensation for the Services. Consultant agrees to comply with any and all applicable income tax laws concerning payments made to Consultant under this agreement, including but not limited to those laws regarding reporting and withholding. Consultant understands and agrees that they will indemnify ICSC



for any cost or expense it might incur with respect to personal income tax liability for payments made under this Agreement, including but not limited to liability for penalties or assessments.

#### 4. EXPENSES

Apart from the stipend for work performed, all other expense shall be from Consultant's own account.

#### 5. BENEFITS

Consultant shall not be entitled to any benefits that may be offered from time to time to ICSC's employees, including, without limitation, health insurance, contributions to social security, worker's compensation and unemployment insurance, and shall not be entitled to participate in any ICSC employee pension, health or other fringe benefit plan of ICSC. ICSC shall not obtain worker's compensation insurance on behalf of Consultant or provide insurance coverage of any kind for Consultant.

#### 6. RELATIONSHIP OF PARTIES

Consultant shall perform the Services in a professional manner as an independent contractor. Nothing in this agreement should be construed to create a relationship between ICSC and Consultant as employer-employee, principal-agent, or partners, nor shall the Consultant have the authority to bind ICSC in any respect or to incur any debts, contracts, liabilities, or obligations on behalf of ICSC. Consultant shall not hold Consultant out as having power to, nor shall Consultant purport to, bind ICSC in any way whatsoever or create any duty or obligation on behalf of ICSC.

#### 7. OWNERSHIP OF WORK PERFORMED BY CONSULTANT; ATTRIBUTION

Unless otherwise agreed in writing between Consultant and ICSC, all of Consultant's work product under this agreement (the "*Work Product*"), whether or not patentable, registrable, or copyrightable, including any writing, invention, design, system, process, development or discovery conceived, developed, created or made by Consultant, alone or with others, to meet the specific and particular needs of ICSC, shall become the sole and exclusive property of ICSC. Consultant agrees to (i) confidentially communicate such Work Product to ICSC as soon as practicable; (ii) if and when required by ICSC do all acts and things, at ICSC's cost, as may be necessary or desirable to obtain or join with ICSC in obtaining legal protection in respect of any such Work Product in any part of the world and to vest the same and any related trade marks in ICSC or as ICSC may direct absolutely for its exclusive benefit together with all rights which may belong or accrue thereto; and (iii) not apply for any legal protection for any such Work Product except as explicitly provided in Subsections (i) and (ii) above. The submission of any written work by Consultant in performance of this agreement shall be deemed an assignment of copyright in the work to ICSC or as otherwise directed by ICSC.

Consultant shall be appropriately acknowledged for any work he produces. ICSC may use Consultant's name, image, and biographical information (including but not limited to institutional affiliations) in connection with the Project or such work.

**8. PROPRIETARY AND CONFIDENTIAL INFORMATION**

All Proprietary and Confidential Information (as defined below in this Section 8) relating to ICSC or its activities in the possession of Consultant or provided to or developed by Consultant pursuant to this agreement, whether provided before or after the date of this agreement and whether oral or written shall not, without the prior written approval of ICSC, be used or disclosed by Consultant to anyone for any purpose other than in connection with the Consultant's performance of this agreement, provided that disclosure shall be permitted (i) if pursuant to subpoena or court order, or (ii) if made to Consultant's agents and advisors, including Consultant's attorneys and accountants, who agree to accept such information subject to the requirements of this Section 8. Consultant shall not be liable for disclosure of Proprietary and Confidential information which (a) is in the public domain at the time it is disclosed, (b) is known to or in possession of Consultant at the time of receipt, or (c) became known to Consultant from a source other than ICSC without breach of this Section 8 by Consultant or of any other obligation of confidentiality by such source.

Proprietary and Confidential Information shall remain the property of ICSC and together with all copies shall, at ICSC's request or upon the termination of this agreement, promptly be destroyed or returned to ICSC by Consultant and by anyone to whom such Proprietary and Confidential Information has been made available by Consultant. For purpose of this agreement, "*Proprietary Information*" shall mean any information not generally available to the public which has value to ICSC and "*Confidential Information*" shall mean any information not generally available to the public which has value to any other person with whom ICSC has a working relationship.

**9. BUSINESS PERMITS; CERTIFICATES AND LICENSES**

Consultant confirms that they have complied with all laws applicable to the services to be performed under this agreement requiring business permits, certificates and licenses. Consultant agrees to comply with any such laws that might become applicable at their own expense and to reimburse ICSC for any direct expenses they might incur as a result of their failure to do so.

ICSC agrees that it will not (i) withhold FICA (Social Security and Medicare Taxes) from Consultant's payments or make FICA payments on Consultant's behalf, (ii) make state or federal unemployment contributions on Consultant's behalf, or (iii) withhold state or federal income tax from Consultant's payments.

Consultant shall pay all taxes incurred while performing services under this agreement, including all applicable income taxes and self-employment (Social Security) taxes. Upon request, Consultant shall provide ICSC with proof that such payments have been made.

**10. TERMINATION OF AGREEMENT BY EVENTS OF DEFAULT**

ICSC may at any time and without prejudice to any rights or claims it may have against Consultant by notice in writing terminate this agreement immediately and without any liability to pay any remuneration, compensation or damages if at any time Consultant shall

- (i) materially change or fail to provide the Services as defined in Attachment A; or

- (ii) fail to complete any of the Services listed in Attachment A in a manner reasonably acceptable to ICSC within 14 calendar days of the date for completion of such Service or such later date as the Parties may agree in writing; or
- (iii) be guilty of serious misconduct, commit a material breach of any of the terms of this agreement or willfully neglect to perform or (other than as a result of illness or accident) prove to be incapable of performing the Services; or
- (iv) become bankrupt or unable to pay their debts when due; or
- (v) commit any act of fraud or dishonesty (whether or not connected with the performance of the Services); or
- (vi) incur or experience an illness, accident or other incapacity which substantially impairs their ability to perform their duties under the agreement.

## **11. WAIVER, RELEASE AND INDEMNIFICATION**

- 11.1. **Insurance Coverage.** Consultant represents and warrants that they are is and will be covered throughout the Project by a policy of comprehensive health and accident insurance which provides adequate and sufficient coverage for injuries and illnesses they sustain while working pursuant to this agreement. Consultant absolves ICSC, its affiliate organizations, and any other entity providing funds for or otherwise engaged with ICSC on matters related to the Project, including the US government, and their respective officers, directors, employees, consultants and volunteers (the “ICSC Group”) of all responsibility and liability for any injuries, illnesses (including death), claims, damages, charges, bills and expenses (“Damages”) Consultant may incur in connection with the Project to the extent that, in the case of each such organization or individual, the Damages do not result from such organization’s or individual’s intentional malfeasance.
- 11.2. **No Assumption of Liability.** Consultant understands and acknowledges that, except as otherwise explicitly stated elsewhere in this agreement, no member of the ICSC Group assumes any responsibility or liability, in whole or in part, for any transportation delays, transportation or lodging expenses, sickness, disease, injuries (including death), losses, damages, weather, strikes, force majeure of any kind, civil unrest, public health risks, terrorism, or any other failure, negligence or other event of any kind.
- 11.3. **Release.** Consultant, both individually and on behalf of their heirs, successors, assigns and personal representatives, hereby indemnifies, defends and holds harmless each member of the ICSC Group from any and all liability, losses, damages, judgments and expenses, including attorneys’ fees, that they or any of them incur or sustain as a result of any claims, actions or causes of action that arise out of, occur during or are in any way connected with Consultant’s participation in the Project, to the extent not caused by such member’s intentional malfeasance.

**12. ASSIGNMENT**

This agreement may not be assigned by either ICSC or Consultant without the prior written consent of the other. Any purported assignment in violation of this Section 12 shall be void ab initio.

**13. SURVIVAL OF COVENANTS ON TERMINATION**

Notwithstanding the termination of this agreement it shall remain in full force and effect with respect to the obligations of either Party that are intended by their terms to continue and may be enforced against the applicable Party accordingly.

**14. ENTIRE AGREEMENT**

This agreement, including the Attachments, constitutes the entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous oral and written agreements, understandings, negotiations and discussions. This agreement may not be amended orally, nor shall any purported oral amendment or modification (even if accompanied by partial or complete performance) be of any legal force or effect or constitute an amendment or modification of this agreement, but rather this agreement may be amended or modified only by an agreement in writing signed by the Parties.

**15. SEVERABILITY**

If any part of this agreement is held unenforceable, the rest of the agreement will continue in effect.

**16. WAIVER OF RIGHTS**

No waiver of any term or condition of this agreement shall be effective unless made in writing signed by the Party against whom the waiver is sought to be enforced. Any waiver at any time by either Party of the Party's rights with respect to a default or any other matter arising in connection with this agreement shall not be deemed a waiver with respect to any other or subsequent default or matter.

**17. RIGHTS IN THIRD PARTIES**

The Parties do not intend to create rights in or grant remedies to any third party as a beneficiary of this agreement or to create for the benefit of any third party any duty or standard of care by any covenant, obligation, or undertaking established in this agreement.

**18. NOTICES**

All notices and other communications in connection with this agreement, including notices of change of contact information in Attachment B to this agreement, shall be in writing and shall be considered given (i) upon receipt when handed personally to the recipient, (ii) on the date of delivery when delivered to the recipient's address as provided in Attachment B by registered mail return receipt requested or other form



of delivery in which written evidence of delivery is provided by the deliverer, or (iii) on the date sent when sent by fax to the recipient's fax number as provided in Attachment B.

**19. SECTION HEADINGS NOT BINDING**

The Section headings in this agreement are for convenience only and in no way define or limit the scope or intent of any provisions or Sections of this agreement.

**20. GOVERNING LAW**

This agreement shall be interpreted, enforced and governed by the laws of the State of New York (without regard for the conflict of laws principles applied by the Courts of the State of New York).

**21. COUNTERPARTS**

This agreement may be executed in any number of counterparts, all of which when taken together will constitute one and the same instrument. Any such counterpart may be a facsimile copy which copy shall be as valid as the original of that counterpart.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.



*Kldia Shvili*  
\_\_\_\_\_  
INSTITUTE FOR DEVELOPMENT OF FREEDOM OF INFORMATION (IDFI)

INTERNATIONAL COALITION OF SITES OF CONSCIENCE

*Elizabeth Silkes*  
\_\_\_\_\_  
By:

Name: Elizabeth Silkes  
Title: Executive Director

*E.S.*

**ATTACHMENT A****CONSULTING SERVICES**

This table sets forth the various stages of the Project, the time periods within which each of the stages is to be completed, the dates on which payments of the Fee are to be made, and the amounts of those payments

<b>PROJECT STAGES</b>	<b>TIME PERIOD</b>	<b>PAYMENT AMOUNT</b>	<b>PAYMENT DATE</b>
Detailed outline of the draft report for ICSC review and feedback.	<b>March 2021</b>	<b>\$600</b>	Upon receipt of outline
Prepare final report to ICSC. The final report should: <ul style="list-style-type: none"> <li>• Follow the general structure of the questionnaire; with the same section headings, and should focus on the innovations shared by the contributors to the project, as well as common challenges, good practices and lessons learned;</li> <li>• Include the responses to the questionnaire submitted by the contributing organizations in an annex;</li> <li>• Incorporate responses from at least three regional CSOs with digital archiving experience;</li> <li>• Be approximately eight (8) pages in length, not including the annex.</li> </ul>	<b>March-May 2021</b>		
Submit final 8 page report to ICSC.	<b>May 14, 2021</b>		
Prepare and deliver a short presentation of their findings for a virtual exchange on this topic that will take place during June 2021.	<b>June 2021</b>	<b>\$600</b>	<b>June 15, 2021</b>
<b>TOTAL</b>		<b>\$1,200 USD</b>	



**ATTACHMENT B**

**ADDRESSES**

**ICSC**

55 Exchange Place, Suite 404  
New York, NY USA

Attn: Elizabeth Silkes  
[esilkes@sitesofconscience.org](mailto:esilkes@sitesofconscience.org)

**INSTITUTE FOR DEVELOPMENT OF FREEDOM OF INFORMATION (IDFI)**

**Attn: Anton Vacharadze**  
[a.vacharadze@idfi.ge](mailto:a.vacharadze@idfi.ge)

