Dated March 17, 2014

THE BRITISH COUNCIL

- and -

'HE'NA E PLOTE' (BEDER) UNIVERSITY

AGREEMENT FOR SUPPLY OF SERVICES RELATING TO
THE BRITISH COUNCIL ONLINE ENGLISH PLACEMENT TESTS
THIS AGREEMENT is dated [05/03/2014].

PARTIES

(1) THE BRITISH COUNCIL, incorporated by Royal Charter and registered as a charity (under number 209131 in England and Wales and number SC037733 in Scotland), with its principal office at 10 Spring Gardens, London, SW1A 2BN operating through its local office at [insert address and details] (the "British Council"); and

(2) 'HËNA E PLOTË’ (BEDËR) UNIVERSITY incorporated and registered in Albania with company number K12113002H whose registered office is at Xhorxh W. Bush, Nr. 50 near Albanian Muslim Community, Tirana, Albania the "SEMA Foundation", “hereafter Bedër University”.

BACKGROUND

(A) The British Council has developed its own core online English language placement tests, which test a candidate’s grammar, vocabulary and reading skills and provide a score on the CEFR from A1 to C (the “British Council Online English Placement Tests”).

Agreed terms

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

"Deliverables", all documents, products and materials developed by the British Council or its agents, subcontractors, consultants and employees in relation to the British Council Online English Placement Tests in any form and which are described in more detail in Schedule 1.

"In-put Material", all documents, information and materials provided by Bedër University relating to the Services, including computer programs, data, reports and specifications, and the information to be provided by Bedër University as set out in Schedule 2.

"Intellectual Property Rights", all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case
whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"Services", the services to be provided by the British Council under this Agreement as set out in Schedule 1, together with any other services which the British Council provides or agrees to provide to Bede University.

"VAT", value added tax chargeable under English law for the time being and any similar additional tax.

1.2 Any headings shall not affect the interpretation of this Agreement.

1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

1.4 The Schedules and background form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.6 A reference to writing or written includes faxes but not e-mail.

1.7 Where the words include(s), including or in particular are used in this Agreement, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.

2. Commencement and duration

2.1 The British Council shall provide the Services to Bede University on the terms and conditions of this Agreement from the date of this Agreement for a period of one year
unless this Agreement is terminated in accordance with clause 10.

3. **British Council’s obligations**

3.1 The British Council shall:

3.1.1 provide the Services, and deliver the Deliverables to Bedër University, in accordance with Schedule 1 in all material respects, save that any dates specified in Schedule 1 shall be estimates only and time for performance by the British Council shall not be of the essence of this Agreement; and

3.1.2 observe all health and safety rules and regulations and any other reasonable security requirements that apply at Bedër University’s premises and that have been communicated to it under clause 4.1.2, provided that it shall not be liable under this Agreement if, as a result of such observation, it is in breach of any of its obligations under this Agreement.

4. **Bedër University’s obligations**

4.1 Bedër University shall:

4.1.1 co-operate with the British Council in all matters relating to the Services and shall meet its obligations listed in Schedule 2;

4.1.2 inform the British Council of all health and safety rules and regulations and any other reasonable security requirements that apply at any relevant Bedër University premises; and

4.1.3 ensure that any and all equipment, systems, cabling or facilities provided by Bedër University and used directly or indirectly in the supply of the Services is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements.

4.2 If the British Council’s performance of its obligations under this Agreement is prevented or delayed by any act or omission of Bedër University, its agents, subcontractors, consultants or employees, the British Council shall not be liable for any costs, charges or losses sustained or incurred by Bedër University that arise directly or indirectly from such prevention or delay.
5. Charges and payment

5.1 Bedër University shall pay the charges as set out in, and in accordance with, Schedule 3.

5.2 Bedër University shall pay each invoice submitted to it by the British Council, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by the British Council and time for payment shall be of the essence of this Agreement.

5.3 Without prejudice to any other right or remedy that it may have, if Bedër University fails to pay the British Council on the due date, the British Council may:

5.3.1 claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 and Bedër University shall pay such interest immediately on demand; and

5.3.2 suspend all Services until payment has been made in full.

5.4 All sums payable to the British Council under this Agreement shall become due immediately on its termination, despite any other provision. This clause 5.4 is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.

5.5 The British Council may, without prejudice to any other rights it may have, set off any liability of Bedër University to the British Council against any liability of the British Council to Bedër University.

6. Intellectual property rights

6.1 Subject to clauses 5.1 and 6.2, the British Council grants Bedër University the right to use those Intellectual Property Rights owned or licensed by the British Council and used to provide the Services or existing in the Deliverables on a non-exclusive basis and solely to such extent as is strictly necessary to enable Bedër University to make use of the Deliverables and the Services in accordance with Schedule 1 and Schedule 2. If this Agreement is terminated, this licence will automatically terminate.

6.2 Bedër University acknowledges that, where the British Council does not own any of the Intellectual Property Rights
used to provide the Services or existing in the Deliverables, Bedőr University's use of such Intellectual Property Rights is conditional on the British Council obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the British Council to license such rights to Bedőr University.

7. Confidentiality and the British Council's property

7.1 Bedőr University shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to Bedőr University by the British Council, its employees, agents, consultants or subcontractors and any other confidential information concerning the British Council's business or its products which Bedőr University may obtain.

7.2 Bedőr University may disclose such information:

7.2.1 to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out Bedőr University's obligations under this Agreement; and

7.2.2 as may be required by law, court order or any governmental or regulatory authority.

7.3 Bedőr University shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this clause 7.

7.4 Bedőr University shall not use any such information for any purpose other than to perform its obligations under this Agreement.

7.5 All materials, equipment and tools, drawings, specifications and data supplied by the British Council to Bedőr University shall, at all times, be and remain, as between the British Council and Bedőr University, the exclusive property of the British Council, but shall be held by Bedőr University in safe custody at its own risk and maintained and kept in good condition by Bedőr University until returned to the British Council, and shall not be disposed of or used other than in
accordance with the British Council's written instructions or authorisation.

8. Limitation of liability

8.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from negligence or for fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.

8.2 Bedër University acknowledges and accepts that the online system used to provide the British Council Online English Placement Tests is operated and maintained by a third party BTL Group Ltd, Salts Wharf, Ashley Lane, Shipley, West Yorkshire, BD177DB, United Kingdom, and consequently the British Council gives no warranty, representation or guarantee regarding the availability or operation of such online system.

8.3 If any British Council Online English Placement Test taking place in accordance with Schedule 2 is disrupted as a result of a failure of the British Council or its suppliers, the British Council shall ensure that the affected candidates are entitled to re-sit the British Council Online English Placement Test on one additional occasion without further charge to Bedër University. Providing such re-sits and reimbursing Bedër University upon demand for the reasonable cost to Bedër University (if any) of one additional day's hire of an appropriate test venue where such disruption took place shall be the British Council's sole liability to Bedër University in such circumstances.

8.4 Subject to clause 8.1:

8.4.1 the British Council shall not be liable for:

(a) loss of profits; or
(b) loss of business; or
(c) depletion of goodwill and/or similar losses; or
(d) loss of anticipated savings; or
(e) loss of goods; or
(f) loss of contract; or

(g) loss of use; or

(h) loss of corruption of data or information; or

(i) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and

8.4.2 the British Council’s total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement shall be limited to the price paid for the relevant Services.

8.4.3 Bedër University is responsible for the accuracy of the information it is required to provide to the British Council under this Agreement. The British Council shall have no liability for any loss or damage suffered by Bedër University as a result of incorrect Input Material being provided to the British Council by Bedër University, or any delay or failure to provide such Input Material to the British Council.

8.5 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

9. Data protection

9.1 Bedër University acknowledges and agrees that details of Bedër University’s name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the British Council in connection with the Services.

9.2 With respect to the parties’ rights and obligations under this Agreement, the parties agree that Bedër University is the Data Controller and that the British Council is the Data Processor.

9.3 The British Council shall, in relation to Personal Data acquired from Bedër University under this Agreement:

9.3.1 Process the Personal Data only in accordance with instructions from Bedër University;
9.3.2 Process the Personal Data only to the extent, and in such a manner, as is necessary for the performance of the British Council's obligations under this Agreement or as is required by law;

9.3.3 implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

9.3.4 take reasonable steps to ensure the reliability of any British Council personnel who have access to the Personal Data; and

9.3.5 ensure that all personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 9.

9.4 In this clause 9, “Personal Data”, “Process”, “Data Controller” and “Data Processor” shall have the meanings ascribed to them in the Data Protection Act 1998.

10. Termination

10.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate this Agreement without liability to the other on giving the other not less than three months' written notice or immediately on giving notice to the other if:

10.1.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment; or

10.1.2 the other party commits a breach of any of the material terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

10.1.3 the other party becomes (or, in the reasonable opinion of the terminating party, is at serious risk of becoming) insolvent or unable to pay its debts as they fall due; or
10.1.4 there is a change of control of the other party.

10.2 On termination of this Agreement for any reason:

10.2.1 Bedër University shall immediately pay to the British Council all of the British Council's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the British Council may submit an invoice, which shall be payable immediately on receipt;

10.2.2 Bedër University shall, within a reasonable time, return all of the British Council's equipment. If Bedër University fails to do so, then the British Council may enter Bedër University's premises and take possession of them. Until they have been returned or repossessed, Bedër University shall be solely responsible for their safe keeping; and

10.2.3 the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

10.3 Termination of this Agreement, however it arises, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

11. Force majeure

11.1 Neither party shall be in breach of this Agreement if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control.

12. Assignment

12.1 Bedër University shall not, without the prior written consent of the British Council, assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.

12.2 The British Council may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.
13. Governing Law and Dispute Resolution Procedure

13.1 This Agreement and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of England and Wales.

13.2 Subject to the remainder of this clause 13, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Agreement or its subject matter.

13.3 In the event that any claim or dispute arises out of or in connection with this Agreement, the parties shall, following service of written notice by one party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 10 working days after such notice or by such later date as the parties may otherwise agree in writing). If the parties are unable to resolve the dispute or claim in accordance with this clause 13.3, either party may commence proceedings in accordance with clause 13.2.

13.4 Nothing in this clause 13 shall prevent either party from applying at any time to the court for injunctive relief on the grounds of infringement, or threatened infringement, of the other party's obligations of confidentiality contained in this Agreement or infringement, or threatened infringement, of the applicant's Intellectual Property Rights.

14. General

14.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

14.2 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
14.3 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power) and neither party shall incur any expenditure in the name of or for the account of the other.

14.4 This Agreement constitutes the whole agreement between the parties and supersedes any previous agreement, understanding or agreement between them relating to the subject matter of this Agreement.

14.5 This Agreement does not create any rights or benefits enforceable by any person not a party to it.

14.6 Notice given under this Agreement shall be in writing, sent for the attention of the person, and to the address, given on the front page of this Agreement (or such other address or person as the relevant party may notify to the other party) and shall be delivered either personally, by courier, by pre-paid, first-class post or by recorded delivery. A notice is deemed to have been received: if delivered personally, at the time of delivery; in the case of pre-paid first-class post, recorded delivery or courier, 48 hours from the date of posting. If deemed receipt under this clause is not within working hours, the notice will be deemed to be received at the commencement of normal working hours on the first working day following delivery. To prove service of notice, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or handed to the courier.

This Agreement has been entered into on the date stated at the beginning of it.
Schedule 1

Services and Deliverables to be delivered by the British Council

(1) The British Council shall:

(a) ensure Bedër University is set up as an Aptis centre and is provided with login details in advance for any practice test to be carried out in accordance with Schedule 2;

(b) provide Bedër University with the minimum technical specifications to enable Bedër University to be able to set up, install and test SeureClient well in advance of the start of any proposed test session;

(c) prior to Bedër University first proposed test session commencement time, provide Bedër University with the relevant usermanuals and URLs for SecureAssess and Test Package manager to ensure the efficient administration of all test packages.

(d) upon agreement on the number of tests and a validation period the British Council will provide access to Aptis versions (Reading + Listening + Writing + Speaking) for 30 students for a period of 5 days;

(e) provide Bedër University with familiarisation tests to be used by candidates prior to sitting the test;

(f) provide Bedër University with the URL to the Aptis demonstration tests.

(g) provide Bedër University with an electronic copy of the British Council logo for use on Bedër University marketing materials.

(h) register and schedule candidates for the relevant test package by completing and uploading the relevant spreadsheet provided onto the British Council’s Aptis Test Package manager system and generate keycodes for such candidates on or before the agreed test date.

(i) distribute candidate keycodes to the candidates prior to their test session or sessions;

(j) fully adhere to the British Council’s invigilation requirements as set out in the invigilator user manual provided by the British Council during group test sessions;
Schedule 2

Obligations of Bedër University

(1) Bedër University shall:

(a) only use the British Council’s name and logo to the extent explicitly set out in this Agreement and in accordance with any style guides or other instructions issued by the British Council. Bedër University shall not publish any material containing the British Council’s name and logo without the British Council’s prior written consent;

(b) notify the British Council of any desired test date at least one week prior to such date if the test package includes a speaking or writing component. We aim to mark all speaking and writing test components in under 72 hours. This will depend however on the volume, demand and examiner availability at the time of the scheduled test session and therefore the turnaround time for results will need to be agreed on a session by session basis. All test session dates are subject to prior agreement by the British Council (such agreement not to be unreasonably withheld or delayed);

(c) book a suitable exam venue or venues for the allocated number of candidates on the agreed test session or sessions and install SecureClient onto each computer to be used in the test session. An installation test should then be downloaded and tested on each computer. This should be done before commencing any live Aptis test session to ensure any local technical issues are identified in a timely manner prior to testing candidates. Wherever possible, the installation tests must be downloaded and tested out a minimum of 72 hours before the relevant live Aptis test session is due to begin;

(g) fully adhere to the British Council’s technical specification as set out in the user manual provided by the British Council with regards to the set up and administration of all tests;

(h) immediately report to the British Council any technical issues or other problems relating to the Aptis test of which it becomes aware;

(i) promptly follow any instructions given by British Council to resolve any such technical issues or problems;

(j) access and manage its own candidate results through group and individual report forms available in TestPackage manager.
(a) **Schedule 3**

**Pricing**

**Part 1 - Price**

The Price per candidate for Aptis 4 modules is set up at 64 Eur. As stipulated by this contractual agreement a fee of 1920 eur shall be applied for 30 candidates.

In the event of more candidates conducting the test gross fee of 64 Eur per candidate shall apply.

**Part 2 - Payment**

The instalment corresponding to 30 candidates shall be issued upon delivery of Aptis test, by May 30, 2014.

Any instalment applicable to additional candidates shall be issued by the end of the corresponding month in which Aptis test was conducted.

**The payment will be performed in the following account:**

<table>
<thead>
<tr>
<th>Intesa San Paolo Bank</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Account name:</strong></td>
</tr>
<tr>
<td><strong>Account number:</strong></td>
</tr>
<tr>
<td><strong>IBAN code EUR</strong> (valid for bank transfers)</td>
</tr>
</tbody>
</table>

1 The parties agree that the British Council may review and increase the charges set out in this Schedule 3, provided that such charges cannot be increased more than once in any 12 month period. The British Council shall give **Bedër University** written notice of any such increase two months before the proposed date of that increase. If such increase is not acceptable to **Bedër University**, it may, within 30 days of such notice being received or deemed to have been received in accordance with clause 14.6, terminate this Agreement by giving 30 days' written notice to the British Council.
2. **Bedër University** shall pay to the British Council the charges payable under this Agreement in the sums and on the dates set out below:

<table>
<thead>
<tr>
<th>Sum due</th>
<th>Date due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1920 eur</td>
<td>May 30, 2014</td>
</tr>
<tr>
<td>tbd</td>
<td>tbd</td>
</tr>
</tbody>
</table>
Signed by Aida Berxholi
for and on behalf of THE BRITISH COUNCIL

Signed by SEMA Foundation
for and on behalf of 'Hëna e Plotë' (Bedër) University

Ferdinand GJANA
Rector