

LICENCE AGREEMENT

between

SABINET ONLINE LTD

REGISTRATION NO. 96/17856/07

Hereinafter represented by Gerhard Kemp (ID 480423 5074 08 6)
Duly authorised thereto by resolution

OF: NO. 3 CENTURION OFFICE PARK
1021 BANK AVENUE
CENTURION, 0046
TEL NO: (012) 643 9500
MOBILE: 082 556 1193

PO BOX 9785
CENTURION
0046
FAX NO: (012) 663 3543
E-MAIL: gerhard@sabinet.co.za

(hereinafter referred to as "SABINET ONLINE")

and

The Classical Association of South Africa

REGISTRATION NO.

Hereinafter represented by John Atkinson (ID No.3810205066086)
Duly authorised thereto by resolution of the Executive Committee of the Classical Association

OF: School of Languages & Literatures
Bzattie Building, University of Cape
Town
Rondebosch 7700
TEL NO: 021 6502611
MOBILE:

PO BOX

FAX NO: 021 6855530
E-MAIL:
atkinson@humanities.uct.ac.za

(hereinafter referred to as the "PUBLISHER")

WHEREAS the PUBLISHER owns the copyright as contemplated in the Copyright Act, 1978 (Act No. 98 of 1978) with regard to its publications or have the rights to exploit the copyrighted material contained in its publications; and

WHEREAS SABINET ONLINE desires to host certain copyrighted material, published by the PUBLISHER, on its secure system and facilitate access thereto,

NOW THEREFORE the parties agree as follows:

1. Interpretation

In this Agreement –

"ad hoc user" means any user of the world wide web other than the PUBLISHER's subscribers who may on an ad hoc basis access individual articles contained in the licensed material in terms of this agreement;

"article" means a specific contribution by an author to the licensed material

"commencement date" means the date on which the last party have signed this agreement;

"current individual subscribers" means the PUBLISHER'S current individual subscribers to the hard copy or the electronic version hosted by the PUBLISHER himself of the licensed material or members of related organisations who may access the licensed material or parts thereof in terms of this agreement.

"EFT" means Electronic Funds Transfer;

"licensed material" means subsequent issues of the copyrighted material listed in Schedule 1 to this agreement (or in new Schedules to this Agreement, which may be agreed on by the parties from time to time) which shall be supplied to SABINET ONLINE by the PUBLISHER from time to time as it becomes available for publishing;

"secure system" means a network, whether stand-alone or virtual, within the Internet, which is accessible only to-

- (a) users authorised by the subscriber institutions and whose identity is authenticated at the time of log-in and periodically thereafter, consistent with the best practice and whose conduct is subject to rules determined by the subscriber institution and SABINET ONLINE; and



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- (b) current individual subscribers authorised by the PUBLISHER and whose identity is authenticated at the time of log-in and periodically thereafter, consistent with the best practice and whose conduct is subject to rules determined by the PUBLISHER and SABINET ONLINE.
- (c) *ad hoc* users under the conditions as specified in this agreement;

"*subscriber institution*" means an organisation who in terms of a fixed term agreement with SABINET ONLINE regularly pays a fee to receive access to the licensed material for that fixed term in terms of this agreement.

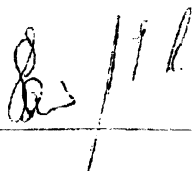
"URL" means Universal Source Locator.

2. Non-exclusive licence

- 2.1 The PUBLISHER grants SABINET ONLINE the non-exclusive worldwide right to host the licensed material on the secure system subject to the terms and conditions of this agreement.
- 2.2 The PUBLISHER also grants SABINET ONLINE the non-exclusive worldwide right to sell subscriptions to the licensed material to institutions subject to the terms and conditions of this agreement and the PUBLISHER undertakes to publish the URL of SABINET ONLINE's secure system in the hard copies of the licensed material.
- 2.3 The PUBLISHER also grants SABINET ONLINE the non-exclusive worldwide right to sell articles contained in the licensed material to *ad hoc* users subject to the terms and conditions of this agreement.

3. Supply and processing of licensed material

- 3.1 The PUBLISHER shall from time to time as it becomes available for publishing supply SABINET ONLINE with an electronic version of the latest issue of the licensed material in the format specified in Schedule 2.

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- 3.2 The PUBLISHER shall allow SABINET ONLINE to load the electronic version of the licensed material as supplied from time to time onto its server and to make such back-ups of the licensed material as are reasonably necessary.
- 3.3 SABINET ONLINE shall within 10 (TEN) working days of receiving the electronic version of the latest addition to the licensed material, process such addition to the licensed material free of charge (which shall include but shall not be limited to formatting, indexing and packaging) and shall host the processed addition to the licensed material on the basis provided for in Schedule 4 on the secure system, for access in terms of this agreement.
- 3.4 The PUBLISHER undertakes not to make the processed licensed material, to which SABINET ONLINE added value by processing available to any other commercial agent. However, the PUBLISHER is free to provide the licensed material in the same raw format as it was provided to SABINET ONLINE, to other commercial agents.

4. Database and Hosting of licensed material

- 4.1 SABINET ONLINE shall create and maintain a database by electronically storing all processed licensed material on its secure server and shall host such database on the secure system on the basis provided for in Schedule 4.
- 4.2 Despite clause 4.1, SABINET ONLINE may withdraw a title from the database after consultation with the PUBLISHER and the subscriber institutions.

5. Subscriptions to the secure system

- 5.1 SABINET ONLINE may sell subscriptions to the licensed material, hosted on the secure system, to institutions.
- 5.2 For each new subscription to the licensed material or annual renewal thereof the PUBLISHER shall receive the subscription price detailed in Schedule 4 and SABINET ONLINE shall receive a commission as specified in Schedule 4 in respect thereof.



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6. Ad hoc sales of articles

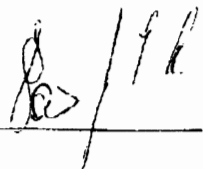
- 6.1 SABINET ONLINE may sell individual articles contained in the licensed material to *ad hoc* users and shall charge the per article unit price specified in Schedule 4 hereto for viewing and printing of such articles.
- 6.2 The PUBLISHER and SABINET ONLINE shall share the unit price as indicated in clause 6.1 on the basis provided for in Schedule 4.

7. Access to current individual subscribers

SABINET ONLINE may supply electronic access to the processed licensed material to the current individual subscribers of the licensed material on the basis provided for in Schedule 4.

8. Access management and statistics

- 8.1 The PUBLISHER and SABINET ONLINE shall abide by the management procedures regarding access to the licensed material set out in Schedule 5 hereto.
- 8.2 The same principles and rules that apply for the use of the hard copies of a publication, shall apply to the use of the electronic version contained in the licensed material. SABINET ONLINE shall ensure that subscriber institutions, current individual subscribers and *ad hoc* users commit to these principles and rules.
- 8.3 SABINET ONLINE shall provide the statistics regarding usage of the licensed material, as specified in Schedule 3, to the PUBLISHER in a manner consistent with the applicable legislation regarding privacy and protecting the confidentiality of the subscriber institutions, their users and the *ad hoc* users.

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9. Web design

- 9.1 SABINET ONLINE shall if required to do so by the PUBLISHER develop and maintain a web page for the PUBLISHER for the purposes of broadcasting the availability of the licensed material on the web to attract new subscribers or *ad hoc* users
- 9.2 SABINET ONLINE shall if required to do so by the PUBLISHER develop and maintain a web page for the journal title/s specified in Schedule 1 of which the licensed material forms part for the purposes of broadcasting the availability of the licensed material on the web to attract new subscribers or *ad hoc* users.
- 9.3 The web page referred to in clause 9.1 shall *inter alia* consist of:
- 9.3.1 The brand of the PUBLISHER;
 - 9.3.2 The PUBLISHER'S membership conditions;
 - 9.3.3 The PUBLISHER'S constitution;
 - 9.3.4 The PUBLISHER'S president and board members;
 - 9.3.5 The PUBLISHER'S address;
 - 9.3.6 A hyperlink to the web page of the PUBLISHER if applicable.
- 9.4 The web page referred to in clause 9.2 shall *inter alia* consist of:
- 9.4.1 The brand of the journal title;
 - 9.4.2 The table of contents and article synopses for each new addition to the licensed material;
 - 9.4.3 The PUBLISHER'S editorial policy;
 - 9.4.4 Guidelines for prospective authors wishing to submit articles;
 - 9.4.5 The PUBLISHER'S editorial comment;
 - 9.4.6 The PUBLISHER'S address;
 - 9.4.7 The price of subscriptions to the hard copy of the licensed material in South African Rand terms;
 - 9.4.8 A hyperlink to the web page of the PUBLISHER if applicable;
 - 9.4.9 An electronic subscription form to the hard copy of the journal title;
 - 9.4.10 A procedure in terms whereof completed electronic subscription forms to the hard copy of the journal title shall be sent to an e-mail address designated by the PUBLISHER



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9.5 SABINET ONLINE shall for its own account charge the fee stipulated in Schedule 4 hereto if any actions as stated in this clause 9 are required by the PUBLISHER.

10. Retrospective back issues

SABINET ONLINE shall if required to do so by the PUBLISHER retrospectively process back issues of the licensed material at the fee stipulated in Schedule 4 hereto.

11. Prices and payment

11.1 SABINET ONLINE shall render the services referred to in clauses 3 and 4 at the fee (if any) stipulated in Schedule 4.

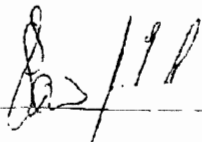
11.2 All fees and prices payable in terms of this agreement shall be set out in Schedule 4 hereto and shall be subject to annual escalation in accordance with the CPI cost increases unless a higher escalation is warranted in terms of cost increases for the Information and Information Technology Industries.

11.3 All fees and commissions accrued will be paid over to the PUBLISHER annually in March. The PUBLISHER or its representative may inspect the accounting records of SABINET ONLINE to verify the correctness of the amounts paid in terms hereof.

11.4 All prices quoted in Schedule 4 are VAT exclusive.

12. Warranty

The PUBLISHER warrants to Sabinet Online that it is the owner of the copyright of the licensed material and/or that it is duly licensed to use the copyright material contained in the licensed material and that the licensed material does not infringe any copyright or other proprietary or intellectual property rights of any natural or legal person.

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13. Indemnity

13.1 The PUBLISHER indemnifies SABINET ONLINE against any loss, damage cost, liability or expense, including legal and professional fees, arising out of legal action instituted in regard to any part of the licensed material against SABINET ONLINE with regard to actual or alleged infringement of copyright or intellectual property rights of any natural or legal person.

13.2 The indemnity referred to in clause 13.1 will survive the termination of this Agreement.

14. Non-waiver

The failure of any party to enforce any provision of this Agreement on any one occasion does not affect its Rights to enforce another provision or the same provision on another occasion.

15. Cancellation

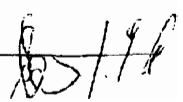
15.1 Should a party fail to comply with any of the provisions of this agreement, and the other party in writing addressed to the party at its selected *domicilium citandi*, a demand for compliance therewith and the other party remains in default 7 (SEVEN) days after despatch of such notice, then such party may

15.1.1 cancel this agreement; or

15.1.2 alternatively and at its sole discretion, claim immediate compliance with the outstanding terms of the agreement;

without prejudice to any claim for damages which it may have against the other party.

15.2 In the event of cancellation of this agreement the PUBLISHER shall against payment of the fee in terms hereof provide SABINET ONLINE with ongoing issues of the licensed material to enable SABINET ONLINE to fulfill its obligations to the subscriber institutions and current individual subscribers for any unfinished year of such subscriptions. SABINET ONLINE shall however in such event cease to sell any new subscriptions to the licensed material



16. Termination

16.1 Any party may terminate this agreement by immediate notice if the other party becomes insolvent or terminates its business operations or in any other event by 12 (TWELVE) months' written notice.

16.2 On termination of this agreement by reason of SABINET ONLINE's insolvency or the termination of its business operations, SABINET ONLINE must make arrangements to ensure the destruction of the licensed material contained in the database.

17. Dispute Resolution

In the event of any dispute arising in regard to the interpretation of this agreement, or the performance of any of its terms, or in regard to any claims, then such matter shall be referred to arbitration in accordance with the arbitration laws then in force in the Republic of South Africa read with the rules of the Arbitration Foundation of Southern Africa. An Arbitrator shall be appointed by agreement between the parties to resolve such dispute, and in the event of the parties not being able to agree on an arbitrator within 15 (FIFTEEN) days of the dispute arising, the appointment of an Arbitrator by the Chairman of the Arbitration Foundation of Southern Africa shall be binding upon the parties. The parties shall attempt to have such arbitration concluded within 60 (SIXTY) days of the dispute arising.

18. Assignment

A party may not assign its rights or sub contract its obligations under this Agreement without the prior written consent of the other party, which consent may not be unreasonably be withheld.

19. Whole agreement

19.1 This is the whole agreement and any additions or amendments to the agreement must be in writing.



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- 19.2 In the event of any provision of this Agreement being declared invalid, the remainder of the agreement shall continue to be in force.

20. Jurisdiction

The South African law shall regulate this agreement and the parties submit themselves to the jurisdiction of the magistrate's court where applicable.

21. Domicilium citandi et executandi

21.1 The parties hereby select as their respective *domicilia citandi et executandi* and addresses to which all notices may be posted in respect of any action or proceeding arising from this agreement or the cancellation thereof, their addresses as stated in the preamble of this agreement;

21.2 Any notice or proceeding in terms of this agreement shall be valid and effective only if served in writing;

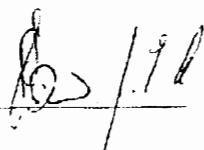
21.3 Any party to this agreement may alter its chosen *domicilium citandi et executandi* by giving the other party written notice of such change, with the understanding that the change shall be valid from the 7th (SEVENTH) day after which it may be deemed that the other party received the notice;

21.4 Any notice to a party:

21.4.1 Sent per registered post (per airmail if applicable) in a correctly addressed envelope to his *domicilium citandi et executandi* shall be deemed to be received by the other party on the 5th (FIFTH) business day after posting thereof;

21.4.2 Delivered by hand to a responsible person during normal business hours at the chosen *domicilium citandi et executandi* shall be deemed to be received on date of delivery;

21.4.3 Sent per telefax or per e-mail to the correct address or number, shall be deemed to be received on the following business day from date of sending (Saturdays, Sundays and Public Holidays excluded);



Notwithstanding anything to the contrary herein contained, a written notice or proceeding which is actually received by a party shall be deemed a notice or proceeding for the purposes of this agreement, notwithstanding the fact that it may be sent or delivered to an address other than the chosen *domicilium citandi et executandi*.

22. Term

This agreement shall commence on the commencement date and shall endure indefinitely until terminated in terms hereof.

SIGNED at _____ on this _____ day of _____
2002.

AS WITNESSES:

1. _____

For and on behalf of SABINET ONLINE

2. _____

SIGNED at Rondebosch on this 30th day of May 2003.

AS WITNESSES:

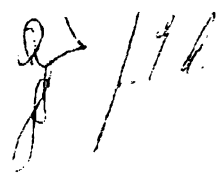
1. J. Manous

J. P. K.
For and on behalf of THE
PUBLISHER

2. D. Lorde

Schedule 1: Licensed material

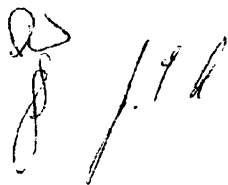
"Acta Classica"



Schedule 2: Prescribed format for licensed material

Format for the delivery of additions to the licensed material by the PUBLISHER:

1. In PDF format (for PC).
2. If 1 is not possible - in MS Word.
3. All articles contained in the licensed material shall be in separate files and the page numbering shall correspond to the printed version.



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Schedule 3: Statistics

Sabinet Online to provide usage information every 6 months according to the different user categories (specified by the Publisher), and for add-hoc users.

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Schedule 4: Financial arrangements

1. Processing, creating database and hosting the licensed material

- 1.1 All issues of the licensed material from 2001 onwards if content is supplied in Pdf or MS Word: Free of charge;
All retrospective issues of the licensed material (pre-2001 volumes) if content is supplied in Pdf or MS Word: R2 500,00 per annual volume.

2. Subscriptions to electronic version of the licensed material

- 2.1 Subscription price to be paid to PUBLISHER per subscription to the licensed material:
- US\$ 40 per annum for International Institutions
 - R50 per annum for Local Institutions
- 2.2 Commission to SABINET ONLINE on 2.1 above: 20%

3. Ad hoc sales of articles

- 3.1 Unit price per article: R40
3.2 Basis for sharing revenue from 3.1 above: 50/50

~~4. Web page development and maintenance~~

- 4.1 For the PUBLISHER: R3 000,00 per annum.
4.2 For the journal title(s), per title: R7 500,00 per annum for the first year and R4 000,00 thereafter
* Scrap if not applicable

Not required

*1/11
Sobhanas
Q. S.*

5. Access to the licensed material

- 5.1 To current individual subscribers: Free of charge
5.2 To institutional subscribers on the basis of a bundled subscription to the titles in the ePublications database – negotiated with the institutions by Sabinet Online: As per par.2 above.
5.3 To ad hoc Internet users: As per par.3 above.

Q. S. / 1/11

Schedule 5: Access management protocol**User authentication:**

1. The PUBLISHER shall be responsible for informing its associated society's members and/or individual subscribers of passwords and / or password changes.
2. The PUBLISHER shall receive passwords for the user categories appropriate to the PUBLISHER.
3. Access can also be provided by means of IP Authentication or any other generally accepted access control mechanism.

End

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