



Version: 1.26 February 26, 2019

THIS CONTENT LICENSE (“License”) is applicable to any content service agreement with Icecat NV, or any of its daughter companies like Icecat International B.V., Icecat Nederland B.V., or Icecat Content Sourcing OÜ (“Icecat”), and any client (“Client”).

1. GRANT OF RIGHTS; RESTRICTIONS

1.a. ACCESS TO ICECAT INFORMATION

Upon acceptance of a signed order form or contract including this License (“Agreement”), Icecat grants to Client, subject to the terms and conditions contained in this License, a limited, non-exclusive, non-transferable right to:

- (i) receive via the Delivery Methods (see Exhibit C) the Icecat Information (see Exhibit B);
- (ii) store the most recent (versions of) Icecat Information on a host computer owned or operated by Client (the “Client Host Computer”); and
- (iii) modify, distribute and display the Icecat Information solely to “Users” (as defined in Section 1.b.(i)), and solely by means of the Client Service.

No provision of this License shall be deemed to restrict or limit Icecat’s right to market, sell, distribute, display or otherwise provide access to the Icecat Information directly or indirectly anywhere in the world, or enter into contracts, grant licenses or make arrangements with any other party to market, sell, distribute, display or otherwise provide access to the Icecat Information anywhere in the world. Client shall not sublicense or otherwise transfer or assign any right granted in Section 1.a. to any other person or entity.

1.b. USERS

- (i) “User” shall mean an individual who (A) becomes legally bound by Client’s online User

Agreement (see Exhibit D) and (B) has access via a Client website, application or system (“Client Service”) to the Icecat Information.

(ii) Client shall cause each User to be legally bound by its online user agreement, as explained in Exhibit D (the “User Agreement”).

(iii) Client shall not post the Icecat Information in any “public” or “free” area on the World Wide Web, outside “Client Service”

1.c. ADDITIONAL LICENSE RESTRICTIONS

(i) Client shall not distribute the Icecat Information to any third party other than a User or distribute the Icecat Information through any means other than through the Client Service. Client shall not make the Icecat information available through third parties, unless as integral part of the Client Service. Client shall not permit Users to access the Icecat Information via any interactive online or electronic information service other than the Client Service. Client shall bind its sub-contractors that help provide the Client Service to the restrictions set forth in this License.

(ii) Client shall use reasonable efforts to prevent the Icecat Information to be systematically copied by any application that is not integrated into the Client Service other than search engines with the sole purpose of indexing its website and delivering web traffic (i.e., visitors) to its website. The latter, does not license a search engine (i.e., a 3rd party website) to display Icecat Information outside the context of providing information about the Client Service.

(iii) Client shall not grant any site or enterprise licenses to receive access to Icecat Information, without Icecat’s prior written consent.

(iv) This license agreement is explicitly not devised as an ASP (Application Service Provider or webshop hoster) or other type of multi-merchant license.

All rights not expressly granted to Client herein shall be retained by Icecat, its licensors or respective manufacturers.

2. DELIVERY OF ICECAT INFORMATION

2.a. DELIVERY AND INSTALLATION

Client shall acquire, install, operate and maintain at its expense all communications lines, equipment, software, services and related technology necessary to receive the Icecat Information via the Delivery Method. Client also shall be responsible for, and shall pay for, any development work, software or hardware relating to the setup and integration of the Icecat Information as part of the Client Service.

2.b. LIMITATIONS ON USE

Client shall use reasonable commercial and technical efforts to cause each third party who obtains access to Icecat Information (including, without limitation, any User) not to use, store, manipulate, distribute or otherwise make available, any Icecat Information without the prior written consent of Icecat, unless for private use. Client shall not, and shall use reasonable commercial efforts not to permit any other party to, edit, alter or otherwise change in any manner the content, format or presentation of the Icecat Information, including, without limitation, all copyright and proprietary rights notices.

2.c. QUALITY OF TRANSMISSIONS

Client shall use its best efforts to insure that each application of Icecat Information (i) is of high quality, (ii) contains an accurate and complete copy of the Icecat Information which Client has been licensed to use, (iii) is free from errors or defects, and (iv) with the exception of isolated short-term technical difficulties, is made available to Users within one day after receipt from Icecat.

2.d. SPECIFICATIONS

Client shall adhere to the Icecat Interface specifications, a copy of which will be provided to Client, and any updates thereof as well.

3. PROPRIETARY RIGHTS

3.a. OWNERSHIP; COPYRIGHT

Client acknowledges and agrees that all ownership and proprietary rights (including, without limitation, the copyrights) to the Icecat Information and additionally downloaded data are and shall remain the sole and exclusive property of Icecat, its licensors or respective manufacturers. Individual manufacturers may at their own discretion deny or withdraw a permission to use their copyrighted product data, such as (but not limited to) pictures and videos which are additionally downloaded. Client is without exception responsible - respecting all relevant laws and regulations - for securing the necessary permissions from respective manufacturers to make use of their copyrighted materials in the Client Service. Client will inform Icecat promptly when it receives such a permission, or when such a permission is denied or revoked by a manufacturer.

3.b. TRADEMARKS

Client acknowledges and agrees that Icecat or its licensors are the sole owners of the trademarks and service marks ("marks") used in connection with the Icecat Information and that nothing contained in this License grants Client any right to use any Icecat Mark, logo or trade name, except as expressly provided in this License.

3.c. INFRINGEMENT

Client shall promptly advise Icecat of any possible infringement of which Client becomes aware of any of Icecat's Marks, copyrights, trade secrets or other proprietary rights, or any use of the Icecat Information in violation of this License.

3.d. MODIFICATION

Icecat shall have no obligation with respect to any infringement of intellectual property rights based on Client's modification of Icecat Information.

3.e. NEGOTIATION

Without prejudice to Clients own obligations as mentioned in 3.a. and elsewhere in this content license, Client entitles Icecat to negotiate a permission to use 3rd party copyrights, whether individually for Client or collectively for all Icecat's clients.

4. PROMOTION

4.a. PROMOTION BY CLIENT

Client will make a best effort to require its business partners – such as manufacturers, distributors, resellers, buyers – to make use of (Open) Icecat as well. For this purpose, Client has the right to use the Icecat name, trademarks, service marks and logo (together, the “Icecat Marks”) to promote any of the Icecat services to its business partners. However, Icecat has the right to withdraw this right at any time without reason. Client understands and agrees that any use of Icecat marks in connection with this Agreement shall not create any right, title or interest, in or to the use of the Icecat Marks and that all such use and goodwill associated with the Icecat Marks will inure to the benefit of Icecat.

4.b PROMOTION BY ICECAT

Icecat has the right to mention Client's name, trademarks, services marks and logo in external communication as a user of Icecat Information during the term of this Agreement.

5. FEES

5.a. CALCULATION OF FEES

Beginning on the Effective Date, Client shall pay to Icecat the fees (“Payments”) defined in the Agreement at the times set forth in the Agreement.

5.b. PAYMENT TERM

Invoices will be paid within fourteen (14) days of receipt thereof. Icecat can require pre-payment of each term.

5.c. TAXES

All fees are exclusive of VAT and other taxes, fees and similar governmental charges related to the execution or performance of an Agreement, other than applicable income taxes imposed on Icecat related to its receipt of Payments.

5.d. CURRENCY

All amounts are stated in Euro and shall be paid in Euro.

5.e. FEES ADJUSTMENT

From time to time, Icecat can adjust fees, which will apply to next renewal terms only, and will inform Client about fee adjustments at least 45 days before the start of the applicable renewal term. An automatically indexed inflation correction is not a reason for contract termination.

5.f. INTEREST & ADMINISTRATION

In case that invoices are not paid in time, Icecat can add reasonable administration fees and otherwise an administration fee of 25 EUR per invoice and charge an interest fee of one percent (1%) per month that the fee is overdue.

5.g. INVOICING PER EMAIL

Invoices will be exclusively sent via internet (i.e., by email).

6. INDEMNIFICATION

6.a. BY Icecat

Icecat shall indemnify and hold harmless Client against all liabilities, costs and expenses (including reasonable attorneys' fees) incurred by Client that arise out of any claim asserted by a third party that the Icecat Information infringes a copyright or any other intellectual property rights of any third party (except for claims for which Icecat is entitled to indemnification under Section 6.b., in which case Icecat shall have no indemnification obligations with respect to such claim), provided that Client, upon receipt of notice of a claim that could result in Icecat indemnifying Client pursuant to this subsection, gives prompt written notice to Icecat of the existence of such claim and permits Icecat, if it so requests, either to conduct the defense of such claim or to participate with Client in the defense thereof and in any settlement negotiations relating thereto; provided, however, that Icecat shall not be required to pay any settlement amount that it has not approved in advance.

6.b. BY CLIENT

Client shall indemnify and hold harmless Icecat against all liabilities, costs and expenses (including reasonable attorneys' fees) incurred by Icecat that arise out of any claim asserted by a third party that involves, relates to or concerns (i) the marketing, sale, or promotion by Client of the Client Service, (ii) any use by Client of any Icecat Information in violation of this License; (iii) any download and use of 3rd party copyrighted materials outside the Icecat Information; or (iv) any claim alleging that the Client Service infringes any patent, trade secret, copyright or other intellectual property rights of any third party; provided that Icecat, upon receipt of notice of a claim that could result in Client indemnifying Icecat pursuant to this subsection, gives prompt written notice to Client of the existence of such claim and permits Client, if it so requests, either to conduct the defense of such claim or to participate with Icecat in the defense thereof and in any settlement negotiations relating thereto; provided however, that Client shall not be required to pay any settlement amount that it has not approved in advance.

6.c. DISCLAIMER

ICECAT PROVIDES THE ICECAT INFORMATION "AS IS", WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES. FOR EXAMPLE, WITHOUT LIMITATION, ICECAT DOES NOT WARRANT THE ACCURACY, TIMELINESS, COMPLETENESS, ADEQUACY, CLIENTABILITY

OR FITNESS FOR A PARTICULAR PURPOSE OF THE ICECAT INFORMATION, AND ICECAT SHALL NOT BE LIABLE TO CLIENT OR TO ANY THIRD PARTY WITH RESPECT TO ANY ACTUAL OR ALLEGED INACCURACY, UNTIMELINESS, INCOMPLETENESS, INADEQUACY, UNCLIENTABILITY OR UNFITNESS. CLIENT SHALL NOT MAKE ANY STATEMENT RESPECTING THE ICECAT INFORMATION THAT IS CONTRADICTORY TO OR INCONSISTENT WITH THE FOREGOING STATEMENTS.

7. TERM AND TERMINATION

7.a. TERM

The term of this License shall commence on the “Effective Date” (defined in an Agreement) and shall terminate after 12 months after the Effective Date. Unless either party delivers to the other written notice of non-renewal at least 30 days prior to the end of the then-current term or renewal term, the respective Agreement shall automatically be extended for an additional term. The following renewal terms will be 12 months.

7.b. UNCURED BREACH

If either party shall breach any provision contained in this License (other than a breach of Section 8, which shall be deemed incurable) and such breach is not cured within 30 days after receiving written notice of such breach from the other party, the party giving such notice may then deliver a second written notice to the breaching party, terminating, this License, in which event the Agreement, and the licenses granted hereunder, shall terminate on the date specified in such second notice.

7.c. CESSATION OF SERVICE

If Icecat discontinues publishing or commercial distribution of the Icecat Information, then either party may cancel the Agreement upon thirty (30) days’ prior written notice to the other party.

7.d. INSOLVENCY

In the event that either party, shall be adjudged insolvent or bankrupt, or upon the institution of any proceedings by it seeking relief, reorganization or arrangement under any laws relating to insolvency, or if an involuntary petition in bankruptcy is filed against such party and said petition is not discharged within 60 days after such filing, or upon any assignment for the benefit of its creditors, or upon the appointment of a receiver, liquidator or trustee of any of its assets, or upon the liquidation, dissolution or winding up of its business (an "Event of Bankruptcy"), then the party affected by any such Event of Bankruptcy shall immediately give notice thereof to the other party, and the other party at its option may terminate the Agreement, and the licenses granted hereunder, upon written notice.

7.e. CHANGE IN CONTROL

If there is a direct or indirect change in the effective voting control of Client, or if Client merges into or is acquired by a third party, or if Client sells or transfers the Client Service or all or substantially all of the assets of the business unit containing the Client Service to a third party (a "Change in Control"), then Client shall give prompt written notice thereof to Icecat, at its option may, within 30 days after receipt of such notice or immediately, if no timely notice is given, terminate the Agreement immediately by, delivering written notice. Client may notify, Icecat in writing of any proposed Change in Control prior to its proposed effectiveness, and Icecat shall, within 30 days after receipt of such notice, notify Client whether Icecat would exercise its right to terminate the Agreement if such proposed Change in Control were consummated.

7.f. EFFECT OF TERMINATION

Upon the expiration or termination of the Agreement for any reason, Client shall (i) immediately inhibit all access to the Icecat Information through the Client Service, (ii) delete any Icecat Information then stored on the Client Host Computer, (iii) cease advertising and promoting the availability of the Icecat Information via the Client Service and (iv) discontinue all uses of Icecat's trade names or Marks. In addition, upon expiration or termination of the Agreement, each party, at its expense, shall promptly return to the other all copies of the other party's Confidential Information.

7.g. COMPENSATION IN CASE OF TERMINATION

Except as expressly provided in this License, a Party shall not because of the termination of an Agreement by the other Party, be entitled to any compensation for loss of its customers or otherwise for the disadvantage which the termination of the Agreement may cause or imply.

8. CONFIDENTIAL INFORMATION

Client and Icecat understand and agree that in the performance of an Agreement each party may have access to private or confidential information of the other party, including, but not limited to, trade secrets, marketing and business plans and technical information, which is designated as confidential by the disclosing party in writing, whether by letter or by the use of a proprietary stamp or legend, prior to or at the time it is disclosed to the other party (“Confidential Information”). Both parties agree that the terms of this License and Agreement, including without limitation its financial terms such as the Payments and the information contained in reports, shall be deemed Confidential Information owned by the other party. Client acknowledges and agrees that the technical and functional specifications and the code and design of the Icecat Interface and all tools and utilities supplied by Icecat to Client are Confidential Information of Icecat. In addition, information that is orally disclosed to the other party shall constitute Confidential Information if within 10 days after such disclosure the disclosing party delivers to the receiving party a written document describing such Confidential Information and referencing the place and date of such oral disclosure and the names of the employees of the party to whom such disclosure was made. Each party agrees that: (i) all Confidential Information shall remain the exclusive property of the owner; (ii) it shall maintain, and shall use prudent methods to cause its employees and agents to maintain, the confidentiality and secrecy of the Confidential Information; (iii) it shall not, and shall use prudent methods to ensure that its employees and agents do not, copy, publish, disclose to others or use (other than pursuant to the terms hereof) the Confidential Information; and (iv) it shall return or destroy all copies of Confidential Information upon request of the other party. Notwithstanding the foregoing, Confidential Information shall not include any information to the extent it (i) is or becomes a part of the public domain through no act or omission on the part of the receiving party, (ii) is disclosed

to third parties by, the disclosing party without restriction on such third parties, (iii) is in the receiving party's possession, without actual or constructive knowledge of an obligation of confidentiality with respect thereto, at or prior to the time of disclosure under this License, (iv) is disclosed to the receiving party by a third party having no obligation of confidentiality with respect thereto, (v) is independently developed by the receiving party without reference to the disclosing party's Confidential Information or (vi) is released from confidential treatment by written consent of the disclosing party.

9. FAIR USE POLICY

Client will conform to Icecat's Fair use policy and use reasonable commercial endeavours to avoid harming Icecat's goodwill, business reputation, and operations.

The fair use of Icecat Information includes the complete avoidance of:

- spamming;
- ripping;
- intellectual property violations;
- forging of message headers to mask the originator;
- privacy violations;
- illegal or unauthorized access to other computers or networks;
- distribution of internet viruses, worms, trojan horses, or other destructive software;
- facilitating a violation of this fair use policy;
- other illegal activities;
- engaging in other activities, whether lawful or unlawful, that Icecat determines to be harmful to its subscribers, operations, reputation, goodwill, or customer relations;
- excessive downloading, i.e., more than 1 million data-sheet downloads per month for a single country/language repository. Icecat can decide to apply an excessive use charge of 0.30 Euro per 1000 downloads in excess of 1 million downloads per month.

10. MISCELLANEOUS

10.a. NOTICES

All notices shall be in writing in English, and delivered by certified mail, return receipt requested, overnight courier service, or by facsimile with confirmation to the address set forth on the signature page, or other address stipulated in writing by a party. Notice shall be deemed delivered and received on the date it is actually received.

10.b. AMENDMENT, ASSIGNMENT

This License may be modified or amended in whole or in part by Icecat immediately upon providing notice to Client in writing or email, unless changes are for clarification purposes only, in which case Icecat will not be obligated to notify Client. The latest version of the Icecat Content License can be found here: www.iceclog.com/content-license-icecat/ . Client's continued use of the Icecat Information following posting of the modification or amendment shall be conclusively deemed an acceptance of the modification or amendment, and Client's only right with respect to any dissatisfaction with any such modifications is to terminate this Agreement. Notwithstanding the foregoing, the Agreement may be modified or amended only by a writing signed by both parties, or by Client submitting a subsequent Agreement, in which case the subsequent Agreement will replace the prior Agreement.

10.c. SURVIVAL OF CERTAIN PROVISIONS

The rights and obligations in Sections 3.a., 3.b., 3.c., 6, 7.f., 7.g., 8 and 10 shall survive termination or expiration of an Agreement for any reason.

10.d. CONSEQUENTIAL DAMAGES

Except for amounts payable pursuant to Section 5 or resulting from a breach of Section 8, neither party shall be liable to the other for any damages other than direct damages. Such other damages including but are not limited to consequential, indirect, special, exemplary, or punitive damages, or any lost revenues or lost profits, even if advised of the possibility of

such damages.

10.e. ENTIRE AGREEMENT

An Agreement contains the final and entire agreement of the parties on the subject matter and supersedes all previous and contemporaneous verbal or written negotiations or agreements on the subject matter herein.

10.f. WAIVER

The failure of either party at any time to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

10.g. SEPARABILITY

If any provision of this License or Agreement or its application in a particular circumstance is held to be invalid or unenforceable to any extent, the remainder of the License, Agreement, or the application of such provision in other circumstances, shall not be affected thereby, and each provision shall be valid and enforced to the fullest extent permitted by law.

10.h. GOVERNING LAW

The Agreement and License shall be governed by, and construed in accordance with, the laws of The Netherlands.

EXHIBIT A: DESCRIPTION OF THE CLIENT

SERVICE

Description of Service:

The Client Service consists of one or more single company applications fully owned and fully operated by Client. The Client Service provides access to product information its Users. The Client Service typically may include a:

- Webshop, incl. a webshop operated on a marketplace, and including 3rd party website advertisements to promote the webshop offers
- E-purchasing application
- ERP system
- Comparison site

EXHIBIT B: DESCRIPTION OF THE ICECAT INFORMATION

The Icecat Information includes and is based on an Icecat copyrighted, multilingual taxonomy, data model and interfaces. The Icecat Information is further a database compilation (database rights) by Icecat which encompass product identifiers, product specifications, product reviews, and other data, based on manufacturer database imports, data-entry, and other sources. The Icecat Information is provided in the form of XML, CSV, JSON, or is represented as HTML, and may contain references (i.e., links) to images and other materials that may be subject to 3rd party copyrights. The images themselves and other manufacturer or 3rd party copyrighted materials are not included in the Icecat Information and thus not covered by this content license. Download and use thereof are at Client's own risk. It depends on the jurisdictions that are relevant for Client, to what degree online (re-)use of 3rd party copyrighted materials is allowed under, for example, US and/or EU fair use laws and regulations.

3rd party copyrighted materials (of brands or publishers) include but are not limited to images, company and feature logos, trademarks, product folders, user manuals, product

videos, 360 degree images, product demos, and award logos. Although Icecat indicates from which manufacturers (i.e., Open Icecat sponsors) it has obtained permissions to syndicate its copyrighted materials, it still may happen that such a manufacturer doesn't grant or revokes its permission regarding a specific user or user application.

1. MANUFACTURER DATABASE IMPORT - QUALITY LEVEL 1

Automatically, products from databases from a lot of manufacturers like HP, Toshiba, Kingston and Philips are included. On a daily basis new products are automatically added via the interfaces with these systems.

2. ICECAT EDITOR DATA-ENTRY - QUALITY LEVEL 2

Icecat editors enter product descriptions which focus on available products of the most popular categories.

For a daily overview of described products and a complete overview of target categories see <https://www.Icecat.biz>

3. SERVICE LEVEL

Icecat strives to correct noticed errors in Icecat Information within max 8 business hours after notification,

Icecat will provide a contact person to manage update processes. editor@Icecat.biz is available for all escalations.

Client will provide Icecat will all the necessary input, such as overviews of priority products to be described, to focus Icecat editors.

EXHIBIT C: DELIVERY METHODS

Icecat will deliver the latest product information via

- a daily export of URLs, presentation via http
- its XML repository
- its JSON interface
- its CSV interface
- real-time or LIVE integrations (e.g., via javascripts or widgets)

Access to the Icecat server will be restricted by login, password and IP address.

EXHIBIT D: USER AGREEMENT

Client's Service will contain at least disclaimers with regard to

- Copyright and Trademarks (see example below)
- Usage (see for example Section 6.c.)

Example Copyright and Trademarks

The entire contents and design of this website are protected under international copyrights. This website is for your personal non-commercial use. You may not modify, copy, distribute, transmit, display, or publish any materials contained on this website without the prior written permission of or the appropriate copyright owner. Please refer to the copyright notice for more information. Certain names and logos are trademarks and service marks of and third parties and may not be used without permission.



Read further: [Terms](#)



icecat

