



## DEED OF ESTABLISHMENT TRUST CONDITIONS STICHTING ADMINISTRATIEKANTOOR ICECAT

On the second day of November two thousand sixteen appeared before me, Remco —  
Bosveld, civil-law notary (*notaris*) in Amsterdam: \_\_\_\_\_  
Martijn Herman Fredrik Rootlieb, born in Utrecht, the Netherlands, on the twenty- —  
second day of August nineteen hundred eighty-four, employed by AKD N.V. a limited- —  
liability company (*naamloze vennootschap*), established under Dutch law, having its —  
registered office in Rotterdam, at its office at Gustav Mahlerlaan 2970, 1081 LA —  
Amsterdam, for the purpose hereof acting as attorney authorized in writing of and as —  
such representing: **Stichting Administratiekantoor Icecat**, a foundation —  
(*stichting*), having its registered office in Amsterdam, the Netherlands, with address —  
at De Liesbosch 12 D, 3439 LC Nieuwegein, the Netherlands, registered with the —  
trade register under number 67184685 (the '**foundation**'). \_\_\_\_\_  
The person appearing, acting as stated above, declared as follows: \_\_\_\_\_

### Introduction

- a. The objects of the foundation include the acquisition of shares for the purpose —  
of administration in the share capital of the company, defined below, in —  
exchange for the issue of depositary receipts, to administer and manage these —  
shares and to exercise the rights attached to these shares. \_\_\_\_\_
- b. The foundation wishes to adopt the terms and conditions under which the —  
foundation will hold and administer shares as referred to in article 4 of the —  
articles of association of the foundation (the '**trust conditions**'). \_\_\_\_\_

To this end, the person appearing, acting as stated above, declared to establish for —  
and on behalf of the foundation the following \_\_\_\_\_

### TRUST CONDITIONS:

### DEFINITIONS

#### ARTICLE 1

- 1.1 In these trust conditions, the following terms will have the meaning indicated:
  - a. a share: a share in the company's share capital; \_\_\_\_\_
  - b. the board: the board of the foundation; \_\_\_\_\_
  - c. the company: Icecat N.V., a limited liability company (*naamloze* —  
*vennootschap*), having its registered office in Amsterdam, the —  
Netherlands, with address at De Liesbosch 12 D, 3439 LC Nieuwegein, —  
the Netherlands, registered with the trade register under number —  
30259744; \_\_\_\_\_
  - d. a depositary receipt: the rights and obligations of a depositary receipt —  
holder in respect of the foundation, the company and third parties by —  
virtue of these trust conditions, the articles of association of the —  
foundation, the company's articles of association and the law; rights —  
include the rights arising for the holder of a depositary receipt as the —  
result of the issue of shares by the company to the foundation, —  
whether or not by way of distribution on shares held for the purpose of

- administration by the foundation;
- e. a depository receipt holder: a holder of one or more depository receipts;
  - f. written/in writing: a letter, fax, email, or message transmitted via other common means of communication and capable of being reproduced, in which the sender's identity can be determined.

## **DEPOSITORY RECEIPTS**

### **ARTICLE 2**

- 2.1 For each share that is transferred to the foundation for the purpose of administration, the foundation issues one (1) depository receipt with the same indication as the share for which it is issued. In addition to these trust conditions, the provisions of articles of association of the foundation as these read at present or will read at any time apply to the administration of the shares. In the event that the indication of the class, numbering, or nominal value of the shares changes or in the event of a division, merger or reorganisation of the share capital, the indications for the depository receipts change in the same way.
- 2.2 In the event that one or more shares administered by the foundation are cancelled as a result of a legal merger or legal demerger, any shares allocated in the scope of the merger or demerger in question will replace the cancelled shares; the provisions of paragraph 1 apply *mutatis mutandis*.
- 2.3 The depository receipts are registered. No depository receipt certificates are issued.
- 2.4 Holders of depository receipts do not have the rights that the law grants to depository receipts issued with the co-operation of a company.

## **RIGHT OF USUFRUCT AND RIGHT OF PLEDGE**

### **ARTICLE 3**

- 3.1 A right of usufruct or pledge cannot be established on depository receipts.

## **REGISTER OF DEPOSITORY RECEIPT HOLDERS**

### **ARTICLE 4**

- 4.1 The board keeps a register at the office of the foundation in which the names and addresses, and – if known – the fax number and email address of the depository receipt holders are entered. In addition, the indications of their depository receipts will be registered as well as the date on which they acquired the depository receipts. The register may also be kept electronically, provided that the storage is safeguarded by means of a back-up.
- 4.2 The depository receipt holders must inform the foundation in writing of the information referred to in paragraph 1 as well as of any change in this information.
- 4.3 The register will be updated regularly. All entries in the register and every change will be signed by a board member of the foundation.
- 4.4 Any depository receipt holder can inspect the register of depository receipt holders at any time and can obtain extracts from this register at his own expense to the extent that the extract relates to his depository receipts.
- 4.5 All notices for and announcements to the depository receipt holders will be issued in writing and sent to their address included in the register of depository receipt holders. In the absence of a specified written address or if a specified written address is no longer valid and no new address has been



specified, the foundation is irrevocably authorised to take receipt of \_\_\_\_\_ notifications and notices on behalf of a depositary receipt holder. All \_\_\_\_\_ consequences of the failure to correctly specify an address or other \_\_\_\_\_ information as referred to in paragraph 1 will come at the expense of the \_\_\_\_\_ depositary receipt holder. \_\_\_\_\_

## **JOINTLY OWNED DEPOSITARY RECEIPTS** \_\_\_\_\_

### **ARTICLE 5** \_\_\_\_\_

5.1 In the event that depositary receipts or limited rights to depositary receipts \_\_\_\_\_ are jointly owned, the joint owners can only be represented in their dealings \_\_\_\_\_ with the foundation by one person to be designated by them in writing for this \_\_\_\_\_ purpose. \_\_\_\_\_

## **TERMS AND CONDITIONS APPLICABLE TO DEPOSITARY RECEIPTS** \_\_\_\_\_

### **ARTICLE 6** \_\_\_\_\_

6.1 Upon the issue of new depositary receipts or the transfer of repurchased \_\_\_\_\_ depositary receipts, the board may attach one or more terms and conditions \_\_\_\_\_ (including but not limited to transfer restrictions, mandatory offering \_\_\_\_\_ provisions, lock-up provisions, valuation provisions, good leaver / bad leaver \_\_\_\_\_ provisions) to such depositary receipts. \_\_\_\_\_

6.2 The terms and conditions referred to in paragraph 1 (i) may vary per \_\_\_\_\_ depositary receipt and/or depositary receipt holder, (ii) form an integral part \_\_\_\_\_ of these trust conditions as far as it concerns the relevant depositary receipts \_\_\_\_\_ and/or depositary receipt holders, (iii) remain applicable upon a transfer \_\_\_\_\_ (*overdracht*) or transmission (*overgang*) of one or more of the relevant \_\_\_\_\_ depositary receipts, unless otherwise stipulated in the relevant terms and \_\_\_\_\_ conditions, and (iv) can be amended and/or restated in accordance with such \_\_\_\_\_ terms and conditions. \_\_\_\_\_

6.3 The terms and conditions referred to in paragraph 1 may not contravene with \_\_\_\_\_ the articles of association of the foundation and/or these trust conditions. \_\_\_\_\_

## **PRE-EMPTION RIGHTS** \_\_\_\_\_

### **ARTICLE 7** \_\_\_\_\_

7.1 In the event that the company's shareholders have a pre-emption right in the \_\_\_\_\_ issue of shares, the foundation can - such at the sole discretion of the board \_\_\_\_\_ of the foundation and the board of the foundation is not obliged to do so - \_\_\_\_\_ offer the depositary receipt holders, not being the company, the opportunity \_\_\_\_\_ to inform the foundation within a term to be set by the board of the \_\_\_\_\_ foundation whether - and if so, how many - new depositary receipts they \_\_\_\_\_ want to acquire based on the issue terms and conditions for the new shares to \_\_\_\_\_ be issued. \_\_\_\_\_

7.2 To the extent that depositary receipt holders have indicated that they want to \_\_\_\_\_ exercise their right referred to in paragraph 1 in time, the foundation will \_\_\_\_\_ exercise its pre-emption right accordingly. \_\_\_\_\_

7.3 Within the term referred to in paragraph 1, the depositary receipt holders will \_\_\_\_\_ also make the consideration that must be paid to the company in the event \_\_\_\_\_ that the pre-emption right is exercised available to the foundation. In the \_\_\_\_\_ event that a depositary receipt holder fails to pay the consideration in time, \_\_\_\_\_ the foundation is entitled to decide not to subscribe for the shares. \_\_\_\_\_

7.4 The foundation acquires its allocated shares for the purpose of administration \_\_\_\_\_ and will grant depositary receipts corresponding to the acquired shares to the \_\_\_\_\_

relevant depositary receipt holders. \_\_\_\_\_

**ALIENATION AND ENCUMBRANCE** \_\_\_\_\_

**ARTICLE 8** \_\_\_\_\_

8.1 The foundation is authorized to alienate one or more of the administered shares it holds to third parties on the terms and conditions as approved by the board and subject to the provisions of the shareholders' agreement, provided that the provisions in the articles of association of the foundation regarding the relevant decision-making process have been observed by the board. \_\_\_\_\_

8.2 The foundation is not authorized to alienate one or more of the administered shares as long as the depositary receipts for these administered shares are listed on the NPEX stock exchange. \_\_\_\_\_

8.3 The foundation shall pay the consideration received to the depositary receipt holders, as a result of which the relevant depositary receipts are cancelled. The board may determine that a part of the consideration will not be paid immediately as security of the by the foundation for the risk and at the expense of the depositary receipt holders regarding the guarantees issued on the occasion of the disposal of the relevant shares by the alienation provided. This part of the consideration shall be paid to the depositary receipt holder in question if and when these guarantee obligations shall lapse without any claims pursuant to guarantees having been made. \_\_\_\_\_

8.4 The foundation is not authorized to pledge or otherwise encumber the shares. \_\_\_\_\_

**DIVIDENDS AND OTHER DISTRIBUTIONS** \_\_\_\_\_

**ARTICLE 9** \_\_\_\_\_

9.1 The foundation shall collect all dividends and all other distributions on shares. \_\_\_\_\_

9.2 Immediately after dividends or any other distribution on the shares are made payable, the foundation shall make the dividends or the other distributions payable to the depositary receipt holders. \_\_\_\_\_

9.3 The foundation is entitled to any bonus shares, claim rights or stock dividends granted by the company; in exchange, the foundation shall issue corresponding depositary receipts to the depositary receipt holder(s). \_\_\_\_\_

9.4 In the event that the company makes a distribution on shares in cash or in other values at the option of the shareholder, as soon as possible the foundation will offer the holders of the depositary receipts that correspond to those shares the opportunity to inform the foundation of their choice within a term specified by the foundation. In the event that the parties involved fail to indicate their choice in writing in a timely fashion, the foundation is free to have the distributions made in the manner to be specified by the foundation. \_\_\_\_\_

9.5 In the event that the company is dissolved, the foundation will pay liquidation distributions on the shares to the depositary receipt holders, as a result of which the depositary receipts are cancelled. \_\_\_\_\_

**EXERCISE OF SHAREHOLDER RIGHTS** \_\_\_\_\_

**ARTICLE 10** \_\_\_\_\_

10.1 The rights attached to the shares are exercised by the board at its own discretion, subject to the provisions stipulated by law and the provisions included in the company's articles of association, the foundation's articles of association, the shareholders' agreement and these trust conditions, as they shall read from time to time. \_\_\_\_\_



10.2 Section 2:118a Dutch Civil Code does not apply according to the law. \_\_\_\_\_

**ARTICLE 11** \_\_\_\_\_

11.1 The foundation shall not charge any costs to the depositary receipt holders. \_\_\_\_\_  
The costs of the foundation shall be borne by the depositary receipt holders. \_\_\_\_\_

**DE-ADMINISTRATION OF SHARES** \_\_\_\_\_

**ARTICLE 12** \_\_\_\_\_

12.1 Only the board can decide upon a full or partial de-administration \_\_\_\_\_  
(decertificering) of shares, subject to the provisions of the shareholders' \_\_\_\_\_  
agreement. \_\_\_\_\_

Depositary receipt holders cannot request de-administration of shares. \_\_\_\_\_

**AMENDMENT OF THE TRUST CONDITIONS** \_\_\_\_\_

**ARTICLE 13** \_\_\_\_\_

13.1 These trust conditions can be amended by the board in the same manner and \_\_\_\_\_  
under the same conditions provided in the foundation's articles of association \_\_\_\_\_  
regarding the amendment of the articles of association of the foundation. \_\_\_\_\_  
The amendment will only come into force and have effect for the foundation \_\_\_\_\_  
and all depositary receipt holders after it has been recorded in a deed that is \_\_\_\_\_  
executed before a civil law notary. \_\_\_\_\_

13.2 The board shall immediately notify all depositary receipt holders of each \_\_\_\_\_  
amendment of the foundation's articles of association and these trust \_\_\_\_\_  
conditions; these notices will be sent to the addresses referred to in article 4. \_\_\_\_\_

**CHOICE OF LAW** \_\_\_\_\_

**ARTICLE 14** \_\_\_\_\_

14.1 These trust conditions are governed by Dutch law. \_\_\_\_\_

**Subsequently, the person appearing – acting as aforesaid – declared and \_\_\_\_\_  
stated:** \_\_\_\_\_

**Power of attorney** \_\_\_\_\_

./ The power of attorney to the appearing person is evidenced by one (1) private deed, \_\_\_\_\_  
which will be attached to this deed. \_\_\_\_\_

**End** \_\_\_\_\_

The person appearing is known to me, civil-law notary. \_\_\_\_\_

This deed was executed in Amsterdam on the date first given in the head of this \_\_\_\_\_  
deed. \_\_\_\_\_

After the substance of this deed was stated and explained and after I, civil-law \_\_\_\_\_  
notary, pointed out the consequences of the contents of this deed for the party, the \_\_\_\_\_  
person appearing declared to have taken note of the contents of this deed after \_\_\_\_\_  
timely being given the opportunity thereto, to agree with the contents of this deed \_\_\_\_\_  
and not to require a full reading thereof. \_\_\_\_\_

Immediately after this deed was read out in a limited form, this deed was signed by \_\_\_\_\_  
the person appearing and myself, civil-law notary. \_\_\_\_\_

(Signatures follow).

ISSUED FOR TRUE COPY



