

# Software As A Service License Agreement for Planet Cloud

Effective Date: March 2025



This **Software As A Service License Agreement for Planet Cloud** (“Agreement”) is made by and between Infovista SAS (“**Infovista**”) and the entity (“**Licensee**”) which has issued a purchase order or otherwise communicated a written acceptance of Infovista’s Quotation (“Order”) and sets forth the terms and conditions for access to and use of the Planet Cloud Software As A Service software license (“SaaS”) offering and associated services (“Services”) licensed or provided by Infovista as set forth in an Order. The SaaS and Services are collectively referred to as “Infovista SaaS”. The Quotation referencing this Agreement, this Agreement, and Order constitutes the terms and conditions relating to Infovista SaaS.

## SECTION 1 - LICENSE GRANT

1.1 Upon acceptance of an Order by Infovista by issuance of an email or otherwise as mutually agreed, Infovista grants to, and Licensee purchases a limited, non-exclusive, non-assignable license to permit Authorized Users to access and use Infovista SaaS for the period and in the manner set forth in an Order. "Authorized User" means Licensee's employees, consultants, contractors, and agents (i) who are authorized by Licensee to access and use the Infovista SaaS under the rights granted to Licensee pursuant to this Agreement and (ii) for whom access to the Infovista SaaS has been purchased in an Order hereunder for Licensee’s own internal purposes and not for processing the data of any third party. Licensee may not use the Infovista SaaS in a service bureau environment (including time-sharing, application service provider or other similar model) which provides a benefit of the use of the Infovista SaaS to any person other than Licensee. Licensee has no right to (and will not) use the Infovista SaaS, in whole or in part, except as specifically authorized in this Agreement and Order. Use beyond the scope of the license granted herein is subject to additional fees and requires an amendment to this Agreement.

1.2 Licensee is responsible and liable for all uses of the Infovista SaaS and documentation resulting from access provided by Licensee, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Licensee is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Licensee will be deemed a breach of this Agreement by Licensee. Licensee shall use reasonable efforts to make all Authorized Users aware of this Agreement’s provisions as applicable to such Authorized User’s use of the Infovista SaaS and shall cause Authorized Users to comply with such provisions. Neither Licensee nor any third party may (1) copy, disclose, commercialize, exploit, distribute, rent, lease or sublicense all or any portion of the Infovista SaaS, (2) modify, unilaterally correct errors or prepare derivative works of the Infovista SaaS, or (3) reverse engineer, decompile, disassemble the Infovista SaaS, or attempt to do so in any manner whatsoever to recreate the Infovista SaaS source code.

1.3 Infovista reserves the right to audit Licensee’s use of the Infovista SaaS from time to time to verify Licensee’s compliance with this Agreement, including the Order. Licensee shall pay all sums due as a result of the audit and reimburse Infovista for the cost of the audit if the audit determines an underpayment by Licensee in an amount in excess of five (5%) per cent of the moneys actually paid to Infovista.

## SECTION 2 - COMMERCIAL TERMS

2.1 **Orders.** Orders shall be submitted by Licensee and Licensee shall pay for any Order upon submission of the Order and Infovista shall provide access to the Infovista SaaS via a URL and credentials delivered by email. Unless otherwise provided in an Order, professional services fees shall be invoiced upon performance.

2.2 **Licenses.** As identified in an Order, Infovista SaaS Licenses may be purchased in quarterly, semi-annual, or annual increments (“Subscription”), in accordance with Infovista’s then current fees, which shall be invoiced at the time of submission of an Order. Unless Licensee gives notice thirty (30) days before the end of the Subscription, Orders shall renew automatically for the same time period as in the Subscription. Infovista SaaS shall be supported in accordance with Infovista’s Quality Charter for Customers as published by Infovista from time to time.

2.3. **Professional Services.** Infovista may from time to time provide professional services or training, subject to availability, to Licensee at the rates and under the terms and conditions set forth in an Order. No customization or other development services are provided and, accordingly, no “work made for hire” is created at any time. Licensee shall reimburse Infovista for all reasonable travel, per diem and other related expenses incurred by Infovista. Licensee may substitute names of students up to seven days in advance of the applicable course. All materials furnished remain the sole and exclusive copyrighted property of Infovista and may not be reproduced without Infovista’s prior written consent. Any purchase of training shall reference an Order and shall be subject to payment of the applicable training fees, due and payable in advance.

2.4 **Payment, Taxes and Charges.** All payments identified in an Order shall be made to Infovista within thirty (30) days from the date of the applicable invoice. All fees are exclusive of shipping and handling charges, customs duties, and value-added, withholding, sales, use, excise and property taxes and other similar taxes (except for taxes based on Infovista’s income). Licensee will pay such charges, duties and taxes. Invoices will be automatically generated based on the Order and sent via email or delivered through the portal maintained by Infovista for the benefit of Licensee. Any overpayment or underpayments of taxes made shall be rectified in a timely manner, each party bearing the responsibility to pay its portions of the applicable taxes. In addition, past-due amounts are subject to a late charge equal to one and one-half percent (1½%) per month or the maximum amount allowed by law, whichever is less. Licensee shall timely notify Infovista of any billing disputes within ten (10) days of receiving any invoice. The parties shall endeavor to resolve any disputes but Licensee is required to continue making undisputed payments during this period. Licensee shall be responsible to reimburse Infovista for any collection and/or legal fees related to overdue payments. In the event of late payment, Infovista may suspend the performance of any of its obligations hereunder without the extension of any Support Service period. Infovista further reserves the right to request payment before delivery or deliver temporary license keys until complete payment of the license fees.

2.5 **Service Level Agreements (SLAs):** During the Subscription, Infovista shall provide Infovista SaaS in accordance with Infovista’s Quality Charter for Customers for Planet Cloud.

### **SECTION 3- INTELLECTUAL PROPERTY, INDEMNIFICATION, AND TRADEMARKS**

3.1 Infovista SaaS is the sole and exclusive intellectual property of Infovista and its third party licensors and use other than as permitted is prohibited by patent, copyright, trade secret, and similar laws protecting such property. Except as specifically granted in an Order, Licensee shall have no right, title, or interest therein and all intellectual property rights to Infovista property are expressly reserved, including, but not limited to, information, data, or other content derived from Infovista’s monitoring of Licensee’s access to or use of the Infovista SaaS, but does not include Licensee Data. Licensee neither owns nor acquires any claim or right of ownership to the Infovista SaaS or to any intellectual property. Licensee undertakes to preserve any and all copyright, confidentiality and other proprietary notices in copies of Infovista SaaS. Infovista reserves all rights not expressly granted to Licensee in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Licensee or any third party any intellectual property rights or other right, title, or interest in or to the Infovista SaaS.

3.2 If Licensee or any of its employees or contractors sends or transmits any communications or materials to Infovista by mail, email, telephone, or otherwise, suggesting or recommending changes to Infovista SaaS, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“**Feedback**”), Infovista is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. Licensee hereby assigns to Infovista on Licensee’s behalf, and on behalf of its employees, contractors, and/or agents, all right, title, and interest in, and Infovista is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Infovista is not required to use any Feedback.

3.3 Infovista will defend Licensee in any action brought against Licensee alleging that the current unaltered release of the Infovista SaaS infringes a patent, copyright, or trade secret, and Infovista will pay any direct damages finally awarded against Licensee for such claim, provided that (a) Licensee gives Infovista prompt written notice of the action, (b) Infovista has sole control of the defense, settlement, or compromise of the action, and (c) Licensee provides Infovista with information, cooperation and other assistance requested by Infovista in connection with the action, or the defense, settlement or compromise of the action. Licensee may elect to participate in the action with an attorney of its own choice at its own expense. If any Infovista SaaS becomes, or in Infovista's opinion is likely to become, the subject of a claim of infringement, Infovista may, at its option, (i) procure for Licensee the right of continued use, (ii) replace or modify the Infovista SaaS to make it non-infringing (or reduce the likelihood of infringement), provided that the replacement or modification provides substantially the functionality replaced or modified, or (iii) terminate the license of the Infovista SaaS, in which event and upon the termination of the license, Infovista will refund to Licensee, as Infovista's sole liability and Licensee's sole remedy, a prorated portion of License fees for the remainder of the then-current Subscription, if any. The obligations of Infovista in this **Section 3.2** will not apply to the extent that the infringement or claim thereof is based on (A) combination or use of the Infovista SaaS with hardware, Infovista SaaS, data or other materials not provided by Infovista, (B) use of the Infovista SaaS other than in accordance with a Schedule, or (C) modifications or additions to the Infovista SaaS (other than modifications or additions by Infovista). This section states the entire liability hereunder with respect to any claim of infringement.

3.3 All brand names, product and service names and titles and copyrights to the Infovista SaaS are trademarks, trade names, service marks or copyrights of their respective holders. Licensee obtains no right to use such property and acknowledges that any such use may constitute an infringement of the holder's rights.

#### **SECTION 4 - LIMITED WARRANTIES AND REMEDIES**

4.1 During the Subscription of the Infovista SaaS licenses, Infovista warrants that Infovista SaaS shall conform to the functionality set forth in the applicable user documentation that is delivered with such Infovista SaaS licenses. Infovista warrants that any professional services delivered under an Order will conform to the Order for a ninety (90) day period after performance. It is expressly agreed however, that the limited warranties provided hereby exclude damages resulting from improper use of the Infovista SaaS (including from untrained or negligent usage), from chemical, electrical or electrochemical influences, or from negligent use or treatment of the Infovista SaaS.

4.2 Infovista does not warrant that the Infovista SaaS are adapted to Licensee's own needs or compatible with any computer program or Internet browser other than identified in an Order. Licensee acknowledges that Licensee is aware of the potential, the purposes, and functions of the Infovista SaaS, or that Licensee has been assisted by a third party to determine the appropriateness of the Infovista SaaS for Licensee's own needs. Infovista does not warrant that the Infovista SaaS is free from error or that the operation of the Infovista SaaS shall be uninterrupted. Infovista has used commercially reasonable efforts to prevent the Infovista SaaS from being infected with unauthorized worms, viruses, Trojan Horses, protect codes, data destruct keys or other programs or devices that may delete or damage the Infovista SaaS. This section shall not prohibit any mechanism designed to ensure compliance with licensing restrictions.

4.3 Licensee's remedies under **Section 4.1** shall be limited, at the sole option of Infovista, to (a) replacement without charge of media which does not comply with the limited warranty set out in **Section 4.1** above; or (b) correction of the Infovista SaaS or provision of a reasonable procedure to circumvent the material non-compliance, to the extent that the Infovista SaaS does not comply with the limited warranty set out in **Section 4.1** above; or (c) if Infovista cannot perform (a) or (b), upon termination of the Infovista SaaS license, Infovista shall refund a pro rata portion of the Infovista SaaS License fee paid by Licensee for the Infovista SaaS.

**4.4 DISCLAIMER. EXCEPT WHEN NOT PERMITTED IN CERTAIN JURISDICTIONS, THE WARRANTIES SET FORTH HEREIN REPLACE ALL OTHER WARRANTIES, EXPRESS, OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. INFOVISTA DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, STATUTORY OR OTHERWISE.**

#### **SECTION 5 – LIABILITY**

5.1 Except for breaches of Sections 3.2 or 6, in no event will Infovista, its affiliates, or any third-party licensor be liable for damages or other amounts that exceed the amount of the license or service fees paid or payable by Licensee in the previous year. In any event, Infovista, its affiliates and third-party licensors are not liable for consequential, incidental, indirect, special, exemplary, or punitive damages, or lost profits, even if they have been advised of the possibility of such damages. In no event will Infovista's aggregate liability arising out of or related to this Agreement under any legal

or equitable theory, including breach of contract, tort (including negligence), strict liability, and otherwise exceed the total amounts paid to Infovista under this agreement in the preceding twelve (12) month period preceding the event giving rise to the claim.

5.3 Infovista's entire liability and Licensee's exclusive remedies are limited to the remedies specified by this Agreement. The limitations of liabilities, disclaimers of warranties, exclusivity of remedies and other limitations set forth herein are an essential element of the bargain between the parties without which the transactions contemplated by this Agreement would not occur and will apply even if a remedy fails of its essential purpose.

## **SECTION 6 – CONFIDENTIAL INFORMATION**

6.1 In consideration of disclosing any Confidential Information (as defined below) hereunder, each party will treat such Confidential Information as confidential and shall protect the nature of the Confidential Information by using the same degree of care, but not less than a reasonable degree of care, as the recipient uses to protect its own Confidential Information, so as to prevent the unauthorized dissemination or publication of the Confidential Information to third parties. Neither party will disclose Confidential Information other than to those of its employees or agents who need to know such information for the performance of each party's rights and obligations under this Agreement. Neither party will use Confidential Information for any other purpose without the prior written consent of the other party. All Confidential Information shall remain the property of the disclosing party, and each party will return or destroy any materials containing such Confidential Information upon request of the other party.

6.2 "Confidential Information" shall mean all information marked or identified as confidential or proprietary, or received under circumstances reasonably interpreted as imposing an obligation of confidentiality, which is disclosed pursuant to this Agreement or any Order. Such term includes, but is not limited to, the Infovista SaaS, all intellectual property rights, trade secrets, ideas, concepts, designs, methodologies, technologies, and business matters such as research and development information, unreleased software, source codes, new products, business opportunities, sales and marketing plans and financial and personnel information as well as Licensee Data comprised of information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Licensee or an Authorized User through the Infovista SaaS.

6.3 Confidential treatment shall not apply to information that (a) was lawfully known by the receiving party prior to receipt, (b) is or becomes publicly available, (c) is lawfully received by either party from a third party who does not have an obligation of confidentiality, (d) is developed independently without use or knowledge of the Confidential Information, or (e) is required to be disclosed by law, court order or law enforcement or other authorities, provided that notice of any intended disclosure is communicated promptly under the circumstances

6.4 This Agreement does not confer any right or interest in or to any Confidential Information. The parties acknowledge and agree that breach of this **Section 6** may cause irreparable harm for which damages may be insufficient. Accordingly, the parties agree that, in addition to other remedies available under this Agreement or applicable law, each shall have the right to seek injunctive or other equitable relief to cure or prevent a material breach hereof.

6.5 Each party shall retain any information relating to an identified or identifiable individual ("Personal Data") disclosed or transferred to it hereunder in confidence during this Agreement and after its termination or expiration. Recipients of Personal Data shall not disclose or transfer such Personal Data to any third party unless such third party has a need for such Personal Data under this Agreement and has agreed to keep the Personal Data confidential. Recipient may keep the Personal Data for no longer than is necessary for the purposes of this Agreement and for serving the other party's future interests, including, without limitation, invitation to the recipient's business events and conferences. The party disclosing any Personal Data warrants that it has obtained consent of the individual whose Personal Data is disclosed or transferred under this Agreement and that the disclosing party's Processing of such Personal Data is in accordance with any applicable law on protection of privacy and Personal Data. "Process" or "Processing" shall mean any operation or set of operations performed upon the Personal Data, whether or not by automatic means, including collection, recording, organization, use, transfer, disclosure, storage, manipulation, combination and deletion of Personal Data.

## **SECTION 7 – TERM, EXPIRATION, AND TERMINATION**

7.1 This Agreement will become effective on the Effective Date set forth on the face page and shall remain in effect for three (3) years. Thereafter this Agreement shall automatically renew for successive one (1) year terms, unless either party gives the other party sixty (60) days prior written notice of its intent not to renew the terms. Infovista SaaS Licenses in an Order shall automatically renew for the same duration as the Subscription identified in the Order.

7.2 Either party may terminate this Agreement upon written notice if the other party has materially breached this Agreement and the breach is not corrected within thirty (30) days from the date such written notice is received. Written notice shall occur upon the actual receipt of a letter specifying the nature of the breach and indicating termination of the license or service as the remedy. Upon any termination, the licenses granted under this Agreement, including any Orders, will terminate and Licensee will promptly discontinue use of the Infovista SaaS. In addition, Licensee will also promptly either destroy and erase all copies of the Infovista SaaS (including related materials) in its possession or control (except those required under statutory recordkeeping purposes) and certify their destruction or erasure.

7.3 Notwithstanding anything to the contrary in this Agreement, Infovista may temporarily suspend Licensee's and any Authorized User's access to any portion or all of the Infovista SaaS if: (i) Infovista reasonably determines that (A) there is a threat or attack on any of the Infovista SaaS; (B) Licensee's or any Authorized User's use of the Infovista SaaS disrupts or poses a security risk to the Infovista SaaS or to any other Licensee or vendor of Infovista; (C) Licensee, or any Authorized User, is using the Infovista SaaS for fraudulent or illegal activities; (D) subject to applicable law, Licensee has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) Infovista's provision of the Infovista SaaS to Licensee or any Authorized User is prohibited by applicable law; (ii) any vendor of Infovista has suspended or terminated Infovista's access to or use of any third-party Infovista SaaS or products required to enable Licensee to access the Infovista SaaS. Infovista shall use commercially reasonable efforts to provide written notice of any suspension to Licensee and to provide updates regarding resumption of access to the Infovista SaaS following any suspension. Infovista shall use commercially reasonable efforts to resume providing access to the Infovista SaaS as soon as reasonably possible after the event giving rise to the suspension is cured. Infovista will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Licensee or any Authorized User may incur as a result of a suspension.

7.4 [Sections 2.5, 3, 4.4, 5, 6, and 8] shall survive termination or expiration of this Agreement. In addition, and except for a termination due to Licensee's material uncured breach, **Section 1** shall survive expiration of this Agreement for the remaining Subscription of the applicable license.

## **SECTION 8 - MISCELLANEOUS**

8.1 Any notice or demand made under the terms of this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, addressed to the respective parties at the address set forth above, with an additional copy sent to Infovista's address, Attn: General Counsel.

8.2 In the event that any one of the provisions of this Agreement is determined by a court to be invalid and unenforceable, the parties intend that such provision be amended and construed in a manner designed to effectuate the purposes of the provision to the fullest extent by law. If it cannot be amended, such provision shall be severed and the remainder of the Agreement shall remain in effect and unimpaired by such action.

8.3 No amendment to this Agreement shall be valid unless made by a writing indicating the parties' intention to make such amendment signed by the parties. Any Licensee's purported contractual terms referenced or appearing in an Order are expressly excluded from the Agreement, and shall be construed to be referenced solely for Licensee's internal use and administrative convenience.

8.4 Infovista shall be entitled to subcontract any of its responsibilities under this Agreement to a third party upon notice to Licensee but shall remain liable for the performance of those responsibilities as if it were continuing to perform them itself. Except as provided in **Section 1**, this Agreement may not be transferred or assigned by Licensee in any manner whatsoever, except upon the prior written agreement of Infovista. Infovista is authorized to transfer all or part of this Agreement to an Infovista affiliate, including where the affiliate is the successor of all Infovista's assets and liabilities following a merger.

8.5 In the event of any action to enforce rights under this Agreement, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees, incurred in connection with such action. This Agreement shall be construed to be governed by the substantive laws of the state of New York, excluding its rules concerning conflicts of laws. The United Nations Conventions on the Sale of Goods shall not apply. Each party consents to the sole and exclusive jurisdiction by the courts located in New York over the parties and any disputes arising hereunder. Additionally, each party irrevocably agrees to accept, and consents to receive, formal service of process for any legal proceeding with

respect to any dispute or other matter arising out of the obligations of the respective parties under this Agreement via French Mail certified mail (return receipt requested) or sent by Federal Express, DHL or other internationally recognized overnight delivery service providing proof of delivery for overnight delivery to that party at the address for that party, with such service of process to be deemed completed for all purposes upon the date the same is duly delivered. In order to change the address at which any party consents to receive service of process, the other parties hereto must approve such request in writing.

8.6 Licensee agrees that it will ensure that the Infovista SaaS will not be shipped, transferred, exported, or re-exported into or used in Cuba, Iran, North Korea, Syria, Sudan, the Crimea region, Russian Federation, Belarus nor in any country in any manner prohibited by US, EU, Canada, France and UK laws and regulations or any export regulations applicable to the jurisdiction or country in which Licensee purchased or uses Infovista SaaS. Licensee further agrees that Infovista SaaS will not be used in the provision, exportation, or re-exportation, directly or indirectly, of goods, services (except for financial services), or technology in support of exploration or production for deep-water (greater than 500 feet), Arctic offshore, or shale projects that have the potential to produce oil or gas in the Russian Federation, or in maritime area claimed by the Russian Federation and extending from its territory.

8.7 Licensee shall comply with all applicable laws and regulations, including privacy laws and regulations having application to or governing its use and operation of the Infovista SaaS and Licensee acknowledges Infovista's Code of Conduct and shall take no action which may cause Infovista to act in a manner inconsistent with its Code of Conduct. Licensee shall indemnify and hold Infovista harmless from and against any claims, damages, losses or obligations suffered or incurred by Infovista arising from Licensee's failure to so comply.

8.8 Infovista shall not be liable for any non-performance or delay resulting from an event of force majeure, such as, but not limited to, strike, war, riot, insurrection, deficiency or delay in the means of transportation or communication, computer breakdown or rupture in electricity supply or occurrence beyond Infovista's control. Should such condition continue for more than (3) three months, either party may terminate the Schedule upon written notice.

8.9 The parties have requested that this Agreement and all documents, communications and documents relating thereto be expressed in the English language.

8.10 **NO PRIOR AGREEMENT**: This Agreement supersedes and replaces any and all previous agreements between the parties.

*Les parties ont exigé que la présente convention ainsi que tous les documents s'y rattachant soient rédigés dans la langue anglaise.*

Each party acknowledges and agrees that the Agreement and Order are the sole and exclusive statement of their agreement, there are no other covenants, conditions, restrictions, or other understandings or agreements, oral, written or otherwise, relating to the subject matter hereof other than as set forth herein, and that in entering into this Agreement, including any Order, each party is not and will not be relying on any representation or warranty made by or on behalf of the other party (or any representative thereof) other than as expressly set forth herein.