

Software Licensing Agreement for Pulse Users

Date: [Insert date]

Parties

Foxbyte Ltd, New Zealand, email pulse@foxbyte.nz, telephone **+64 6 843 5552** (**Foxbyte, Licensor, we, us, or our**).

Licensee, you, or your).

If the Licensee is a company, partnership, trust, public body, or other organisation, the individual accepting or signing this agreement on behalf of the Client represents and warrants that they have authority to bind that organisation to this agreement.

Background

A. Foxbyte provides **Foxbyte Pulse**, a secure, private AI workspace product for businesses and individuals.

B. The Licensee wishes to subscribe to, access, and use Foxbyte Pulse, and Foxbyte has agreed to provide access to Foxbyte Pulse on the terms of this agreement.

C. This agreement is intended to operate with any online order form, onboarding proposal, pricing plan, enterprise proposal, statement of work, or other written document agreed by the parties for Foxbyte Pulse (**Order Form**). If there is an inconsistency, the Order Form prevails for commercial details only, and this agreement prevails for all legal terms unless the Order Form expressly states otherwise.

D. This agreement is drafted on the basis that New Zealand law applies, including the [Privacy Act 2020](#), the [Consumer Guarantees Act 1993](#), the [Fair Trading Act 1986](#), and the [Contract and Commercial Law Act 2017](#), subject to any mandatory laws that apply to a Client located outside New Zealand.

Agreement

1. Definitions and interpretation

1.1 Definitions. In this agreement, unless the context requires otherwise:

Acceptable Use Policy means the acceptable use obligations in clause 8- and any additional acceptable use requirements notified by Foxbyte from time to time.

AI Model Provider means any third-party provider of artificial intelligence models, inference services, hosting, APIs, or related infrastructure used in connection with Pulse.

AI Output means any content, answer, analysis, summary, recommendation, classification, image, text, code, workflow result, or other material generated or assisted by Pulse or any AI Model Provider.

Business Day means a day other than a Saturday, Sunday, or public holiday in New Zealand.

Client Content means all documents, data, files, prompts, inputs, information, records, materials, embeddings derived from Client materials, and other content submitted to, uploaded to, connected with, generated by, or processed through the Client's Pulse environment, excluding Foxbyte IP.

Commencement Date means the date this agreement is accepted, signed, or otherwise becomes binding, or any other date specified in the Order Form.

Confidential Information means all non-public information disclosed by or on behalf of a party to the other party in connection with this agreement, including business information, technical information, pricing, security information, software, documentation, Client Content, workflows, configurations, and all information that should reasonably be understood to be confidential.

Enterprise Client means a Client subscribed to a Pulse enterprise plan or any bespoke, multi-site, multi-department, or individually scoped Pulse deployment.

Fees means all subscription fees, setup fees, discovery fees, workflow development fees, support fees, and other charges payable under this agreement or an Order Form.

Foxbyte IP means Pulse, the software, source code, object code, models, connectors, interfaces, workflows, templates, prompts, libraries, documentation, designs, know-how, trade marks, processes, systems, and all intellectual property rights owned, licensed, developed, or used by Foxbyte, including all improvements and modifications.

Initial Term means the minimum initial subscription term of 3 months from setup completion, unless another initial term is specified in the Order Form.

Normal Business Hours means 8:30 am to 5:00 pm on Business Days in New Zealand, unless Foxbyte notifies otherwise.

Order Form has the meaning given in Background paragraph C.

Pulse means the Foxbyte Pulse AI workspace product, including the Client's private Pulse environment, platform functionality, connectors, workflow features, AI model access, documentation, updates, and related services provided by Foxbyte under this agreement.

Subscription Plan means the Pulse, Pulse Plus, Pulse Pro, Pulse Growth, Enterprise, or other plan selected or agreed by the Client.

Term means the Initial Term and any renewal or continuing subscription period until the agreement is terminated in accordance with its terms.

Token means a computational unit used to measure AI usage, including usage associated with prompts, responses, document reading, image analysis, automated agents, workflows, and other AI-assisted processing.

User means an employee, contractor, officer, representative, or other individual authorised by the Client to access the Client's Pulse environment in accordance with this agreement.

1.2 Interpretation. In this agreement:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a person includes a company, partnership, trust, government entity, or other body;
- (d) a reference to writing includes email and other electronic communication;
- (e) a reference to a law includes that law as amended, replaced, or re-enacted;
- (f) amounts are in New Zealand dollars and exclude GST unless stated otherwise; and
- (g) words such as **including** or **includes** are not words of limitation.

2.- Licence and access to Pulse

2.1 Grant of licence. Subject to the Client's compliance with this agreement and payment of all Fees, Foxbyte grants the Client a limited, revocable, non-exclusive, non-transferable, non-sublicensable licence during the Term to access and use Pulse for the Client's internal business or personal productivity purposes, in accordance with the Subscription Plan and any Order Form.

2.2 No transfer of ownership. The licence granted under this agreement does not transfer any ownership rights in Pulse or Foxbyte IP. Foxbyte and its licensors retain all rights, title, and interest in and to Foxbyte IP.

2.3 Scope of use. The Client may use Pulse only:

- (a) for the number or category of Users, departments, sites, environments, or usage levels agreed in the applicable Subscription Plan or Order Form;
- (b) for lawful internal purposes;
- (c) through authorised access methods provided or approved by Foxbyte; and

(d) in accordance with the Acceptable Use Policy, any technical documentation, and any reasonable instructions notified by Foxbyte.

2.4 Users. Each User account is personal and non-transferable. The Client must ensure that Users keep login credentials secure and do not share credentials with any other person.

2.5 Client responsibility for Users. The Client is responsible for all acts and omissions of its Users and for all activity occurring in its Pulse environment, whether authorised or unauthorised, except to the extent caused by Foxbyte's breach of this agreement.

2.6 Business groups and related entities. The Client must not permit any related company, associated entity, group member, customer, supplier, or other third party to access or use Pulse unless Foxbyte has given prior written consent or the relevant access is expressly included in the Order Form. Foxbyte may require any approved related entity to accept equivalent terms. The Client remains responsible for all approved related entity use.

2.7 Restrictions. Except to the extent expressly permitted by law, the Client must not:

(a) copy, modify, adapt, translate, reproduce, distribute, sell, rent, lease, sublicense, resell, or otherwise commercialise Pulse or Foxbyte IP;

(b) reverse engineer, decompile, disassemble, or attempt to derive the source code, object code, model structure, system prompts, underlying algorithms, architecture, or technical processes of Pulse;

(c) access Pulse to develop, train, benchmark, or improve a competing product or service;

(d) circumvent usage limits, security controls, account controls, AI model restrictions, or access controls;

(e) use Pulse to provide bureau, managed service, outsourcing, or timesharing services to third parties without Foxbyte's prior written consent;

(f) remove or obscure proprietary notices;

(g) interfere with, disrupt, overload, scan, probe, or test the vulnerability of Pulse or related systems without Foxbyte's prior written consent; or

(h) permit any unauthorised person to access, repair, alter, or interfere with Pulse or any Foxbyte system.

2.8 Updates and platform changes. Foxbyte may update, enhance, modify, replace, or discontinue features of Pulse from time to time, provided that Foxbyte will use reasonable endeavours not to materially reduce the core functionality of the

Client's Subscription Plan during the then-current paid subscription period without reasonable notice.

2.9 Third-party services. Pulse may interoperate with Microsoft, Google Workspace, AWS, AI Model Providers, payment providers, and other third-party products or services. The Client acknowledges that third-party services are subject to their own terms, policies, availability, and security practices, and that Foxbyte is not responsible for third-party services outside Foxbyte's reasonable control.

3. Subscription, payment, and pricing

3.1 Subscription billing. Unless otherwise agreed in an Order Form, Pulse subscriptions are billed monthly. The Client may be billed by Stripe credit or debit card, by invoice, or by another payment method agreed at signup.

3.2 Payment due date. Payment is due on the date specified on the invoice, in Stripe, or in the Order Form. The Client must pay all Fees without set-off, counterclaim, withholding, or deduction except to the extent required by law.

3.3 Taxes. Fees are exclusive of GST, unless expressly stated otherwise.

3.4 Missed payments. If payment is not received by the due date, Foxbyte may issue a reminder. If payment remains outstanding 30 days after the original due date, Foxbyte may suspend access to the Client's Pulse environment until all overdue amounts are paid. If payment is not received within 60 days of the original due date, Foxbyte may terminate the subscription by written notice.

3.5 Late payment interest. Foxbyte may charge interest on invoices outstanding for more than 30 days at a rate of 4% per month on the overdue amount, calculated from the original due date until payment is received in full. Foxbyte may exercise this right at its discretion.

3.6 Recovery costs. The Client must reimburse Foxbyte for all reasonable costs incurred in recovering overdue amounts, including debt collection costs and reasonable legal costs.

3.7 Setup fee. Unless otherwise agreed in writing, a one-off setup fee of **NZ\$2,500** is payable upfront before setup work commences. The setup fee is non-refundable in all circumstances, including where the Client withdraws before setup is complete, except to the extent a non-refund would be prohibited by applicable law.

3.8 Pricing basis. Subscription pricing is based on team usage, expected AI usage, level of customisation, infrastructure requirements, compliance needs, and other parameters agreed at signup or in the Order Form.

3.9 Usage materially exceeding plan. If the Client's usage materially exceeds the parameters of the current Subscription Plan, Foxbyte will notify the Client in writing and discuss a revised plan before any pricing change takes effect. The Client will not be retrospectively charged for usage not covered under the current plan without prior written agreement.

3.10 Grace budget and hard limit. Unless otherwise agreed, Foxbyte may configure a hard usage budget at approximately 20% above the monthly Subscription Plan allocation to create a grace budget and reduce service disruption. If that threshold is exceeded, a hard limit may apply and further usage may require manual approval and agreement with the Client.

3.11 Base price changes. Foxbyte may revise base subscription pricing by giving at least 30 days' written notice before the Client's renewal date or next billing period to which the revised pricing will apply. If the Client does not wish to continue at revised pricing, the Client may terminate the subscription at the end of the then-current term or billing period without penalty.

3.12 Subscription tier changes. The Client may request an upgrade or downgrade by contacting Foxbyte. Any tier change must be agreed in writing before taking effect. Removing Users does not automatically reduce the subscription fee; any reduction due to lower usage or a lower tier may be reviewed and agreed at the Client's next renewal date or billing period.

4. Setup, onboarding, and user management

4.1 Onboarding obligations. The Client must provide all information, access, permissions, approvals, materials, and cooperation reasonably required for Foxbyte to configure the Client's Pulse environment, including:

- (a) completing the Foxbyte onboarding brief in full;
- (b) providing necessary user access, administrator access, folder permissions, and connector permissions;
- (c) identifying connected systems, folders, and repositories to be indexed or integrated;
- (d) nominating a primary onboarding contact before setup commences; and
- (e) promptly responding to reasonable Foxbyte requests during setup.

4.2 Setup timeline. Foxbyte will use reasonable endeavours to complete the Client's Pulse environment setup within 2 weeks after Foxbyte confirms that it has received all information, access, and materials required to proceed.

4.3 Client-caused delay. If setup is delayed because the Client does not provide required information, access, approvals, or materials in a timely manner, Foxbyte may adjust the setup timeline accordingly.

4.4 Progress updates. Foxbyte will keep the Client reasonably informed of progress during setup and will notify the Client promptly if any issue arises that may materially affect the setup timeline.

4.5 User management through Microsoft or Google Workspace. Where the Client uses Microsoft or Google Workspace for identity or user management, user

management within Pulse may be handled automatically through the Client's existing workspace administration. In that case, the Client retains responsibility for adding, removing, and managing Users through its own administration tools.

4.6 Foxbyte-managed user changes. Where the Client does not use Microsoft or Google Workspace, Foxbyte may manage User additions and removals upon written request. Foxbyte will process user changes in a timely manner.

4.7 Pricing impact of user changes. Adding Users may affect the Subscription Plan and Fees due to an increase in token usage. Foxbyte will notify the Client of any pricing impact before applying changes that increase Fees. No additional costs will be incurred without the Client's prior written agreement.

4.8 Future self-service features. Foxbyte may introduce enhanced self-service user management functionality. Foxbyte will notify Clients of material changes to the user management process in advance where reasonably practicable.

5. AI usage, Tokens, and fair use

5.1 Usage-based model. Pulse subscriptions are based on the Client's overall AI usage across the Client's Pulse environment and are not based solely on the number of individual Users or seats.

5.2 Token consumption. AI usage is measured in Tokens. Token consumption varies depending on the nature, complexity, and volume of tasks performed, including reading documents, generating content, analysing images, operating automated agents, running workflows, and processing queries.

5.3 Usage patterns. Usage patterns are established over time and may vary significantly between Clients regardless of team size. Power users, automated agents, and workflows may consume more Tokens than light users.

5.4 Initial monitoring. During the initial subscription period, Foxbyte may monitor usage in collaboration with the Client to assess whether the Subscription Plan remains appropriate.

5.5 Plan adjustment. Where the Client's usage consistently and materially exceeds the expected level for the applicable Subscription Plan, Foxbyte will notify the Client and discuss whether a plan adjustment is appropriate. Any pricing changes must be agreed in writing before taking effect and will not be applied retrospectively.

5.6 Enterprise pricing. Enterprise pricing is individually scoped for organisations whose requirements exceed standard plans in one or more areas, including AI usage volume, user numbers, infrastructure complexity, multi-site or multi-department deployment, integrations, or compliance needs.

5.7 Fair use and abuse prevention. Foxbyte may apply reasonable technical limits, rate limits, usage controls, and abuse prevention measures to protect Pulse, manage AI Model Provider costs, maintain service quality, and prevent unlawful or excessive

use. Foxbyte will use reasonable endeavours to avoid unnecessary interruption to legitimate Client use.

6.- Data, privacy, and security

6.1 Client ownership of Client Content. The Client retains ownership of Client Content at all times. Foxbyte claims no ownership of Client Content.

6.2 Licence to process Client Content. The Client grants Foxbyte a limited, non-exclusive, non-transferable licence during the Term to host, store, index, transmit, analyse, and otherwise process Client Content solely to provide, secure, support, maintain, and improve the Client's Pulse environment and to perform Foxbyte's obligations under this agreement.

6.3 No AI model training without consent. Foxbyte will not use Client Content to train, fine-tune, or improve any AI model, whether operated by Foxbyte or a third party, without the Client's explicit written consent.

6.4 Hosting locations. Foxbyte will host Client Content on dedicated servers located in New Zealand and Australia, unless otherwise agreed in writing or required for a specific feature, integration, support request, or AI Model Provider service disclosed to the Client.

6.5 AI Model Providers. Pulse may process Client Content through AI Model Providers in the ordinary course of platform use. Foxbyte uses enterprise-grade API access and will maintain transparency about AI Model Provider arrangements. A current list of AI Model Providers and other subprocessors will be made available to Clients on request or through a nominated Foxbyte location.

6.6 AWS and model infrastructure Pulse may run AI model inference within Amazon Web Services infrastructure in the same secure environment in which the Client's private Pulse instance is hosted. Foxbyte may use AWS-hosted versions of Anthropic models through AWS Bedrock and may access Google Gemini through the enterprise-grade Vertex AI API or other enterprise channels. Foxbyte may use

versions of OpenAI models through AWS Bedrock and Microsoft Azure. Where a model is hosted within AWS or Microsoft Azure infrastructure, Client Content is not sent directly to OpenAI or Anthropic by Foxbyte for that processing..

6.7 External models. Where the Client chooses or enables AI models that are not hosted within AWS, data for those specific queries may be processed within the relevant provider's infrastructure and will be subject to that provider's data handling practices and terms. Foxbyte will maintain reasonable transparency about which models operate outside AWS.

6.8 Query retention. Data processed during an AI query is not retained by Foxbyte for AI model training. Query processing data is retained only to the extent reasonably necessary to provide the service, maintain logs, investigate incidents, comply with law, or as otherwise agreed with the Client.

6.9 Connected repositories and embeddings. Where the Client uploads documents or connects SharePoint, Google Drive, or similar repositories, content may be indexed and stored as embeddings within a vector database inside AWS. Where folders or sites are connected from SharePoint or Google Drive, the original files remain in those systems and are not copied or stored by Foxbyte except where uploaded directly inside the Pulse chat interface or otherwise agreed.

6.10 Security measures. Foxbyte will maintain reasonable technical and organisational security measures designed to protect Client Content against unauthorised access, loss, misuse, alteration, and disclosure, having regard to the nature of Pulse, the Client Content, and the risks involved.

6.11 Client security responsibilities. The Client is responsible for configuring access permissions, maintaining secure credentials, managing User access, ensuring that connected repositories contain only content the Client is entitled to process through Pulse, and promptly notifying Foxbyte of suspected unauthorised access or security incidents.

6.12 Privacy compliance. Each party must comply with applicable privacy and data protection laws in connection with this agreement. For New Zealand personal information, this includes the [Privacy Act 2020](#). The Client is responsible for ensuring that it has all necessary rights, consents, notices, and lawful bases to provide personal information to Foxbyte and to process it through Pulse.

6.13 Notifiable privacy breach. If Foxbyte becomes aware of a privacy breach affecting Client Content, Foxbyte will notify affected Clients promptly and cooperate reasonably with investigation, containment, remediation, and notification processes required by applicable law.

6.14 Third-party provider incidents. Foxbyte takes reasonable steps to select reputable AI Model Providers and other subprocessors, but Foxbyte is not liable for security incidents, data breaches, or data loss caused by third-party providers outside Foxbyte's reasonable control, except to the extent liability cannot be excluded by law or the incident was caused by Foxbyte's breach of this agreement.

6.15 Data export on exit. Following cancellation or termination, Foxbyte will retain Client Content for up to 30 days during which the Client may request an export

. Foxbyte will assist with reasonable data export requests promptly after cancellation or termination. Foxbyte may delete or de-identify Client Content after the retention period, subject to legal obligations and backup retention practices.

7.- AI Output disclaimer and Client responsibility

7.1 AI-assisted tool. Pulse is an AI-assisted workspace and productivity tool. AI Output is generated or assisted by artificial intelligence models and is provided for informational and productivity purposes only.

7.2 No professional advice. AI Output does not constitute legal, financial, medical, regulatory, tax, accounting, engineering, or other professional advice. The Client must obtain appropriate professional advice where required.

7.3 Verification required. The Client is responsible for independently reviewing and verifying all AI Output before relying on it, using it, publishing it, providing it to third parties, or making decisions based on it, particularly where decisions may have legal, financial, employment, regulatory, safety, reputational, or other significant consequences.

7.4 No accuracy warranty. To the maximum extent permitted by law, Foxbyte does not warrant that AI Output will be accurate, complete, current, non-infringing, unbiased, suitable for any purpose, or free from hallucinations, omissions, or errors.

7.5 No guarantee of specific results. Foxbyte does not warrant that Pulse will meet the Client's specific requirements or achieve any particular outcome beyond the general provision of the applicable Subscription Plan.

7.6 Client decisions. The Client remains solely responsible for all decisions, actions, omissions, communications, and business processes undertaken in reliance on Pulse or AI Output.

8. Acceptable use

8.1 Lawful use. The Client must use Pulse only for lawful purposes and in accordance with this agreement.

8.2 Prohibited conduct. The Client must not, and must ensure that Users do not:

- (a) use Pulse for any unlawful, harmful, fraudulent, deceptive, abusive, discriminatory, or malicious purpose;
- (b) generate, upload, request, distribute, or store illegal, offensive, harmful, defamatory, infringing, or otherwise unlawful content;
- (c) share access credentials or provide Pulse access to unauthorised persons;
- (d) resell, sublicense, lease, rent, or otherwise provide access to Pulse without Foxbyte's prior written consent;
- (e) reverse engineer, hack, compromise, overload, interfere with, or attempt to gain unauthorised access to Pulse or its underlying systems;
- (f) use Pulse to develop, train, benchmark, or improve a competing product or service;
- (g) input or process data that the Client does not have the legal right to process;
- (h) attempt to manipulate, bypass, jailbreak, or circumvent underlying AI models, safety systems, moderation tools, security features, or usage controls;

- (i) use Pulse to create or disseminate malware, phishing content, spam, exploit code, or instructions for wrongdoing;
- (j) use Pulse in a manner that violates any applicable AI Model Provider acceptable use policy; or
- (k) use Pulse for high-risk decisions requiring human professional judgment unless the Client implements appropriate human review, verification, and safeguards.

8.3 Provider policies. Pulse is powered in part by third-party AI models and services. The Client agrees to comply with the acceptable use policies and usage restrictions of applicable AI Model Providers, as updated from time to time and notified or made available by Foxbyte.

8.4 Breach. Breach of this clause 8- is a material breach of this agreement and may result in immediate suspension or termination of the Client's Pulse environment at Foxbyte's discretion.

8.5 Suspicious activity. Where Foxbyte reasonably suspects unauthorised access, credential sharing, unlawful use, abuse, or security risk, Foxbyte may suspend relevant accounts or the Client's Pulse environment pending investigation.

9.- Support, maintenance, and service levels

9.1 Support channels. Foxbyte provides Client support through pulse@foxbyte.nz during New Zealand business hours, Monday to Friday. Clients also have access to the Pulse Help Centre for self-service guidance.

9.2 Response times. Foxbyte will use reasonable endeavours to respond to support requests within the following indicative timeframes:

Subscription Plan	Indicative response time
Foxbyte Pulse	Within two New Zealand Business Days
Foxbyte Growth	Within two New Zealand Business Days
Foxbyte Pulse Plus	Within one New Zealand Business Day
Foxbyte Pulse Pro	Within four New Zealand business hours
Enterprise	Within four New Zealand business hours or as specified in the Order Form

9.3 Account manager. Pulse Pro and Enterprise Clients may be assigned a dedicated Foxbyte account manager as their primary point of contact, subject to the applicable Subscription Plan or Order Form.

9.4 Critical platform issues. In the event of a critical platform issue, including complete loss of access, a material security incident, or a total platform outage, Foxbyte will respond and work to resolve the issue as promptly as reasonably possible, regardless of time of day, at no additional charge.

9.5 Out-of-scope support. Support for bespoke workflows, custom integrations, client-specific builds, data remediation, third-party system issues, or issues caused by Client configuration falls outside standard Pulse support unless included in an Order Form. Such support may be subject to separate commercial terms.

9.6 Planned maintenance. Foxbyte may perform scheduled maintenance on Pulse from time to time. Where planned maintenance is likely to result in service interruption, Foxbyte will use reasonable endeavours to provide at least 48 hours' advance notice by email to the nominated Client contact or by Pulse notification, and to schedule maintenance outside Normal Business Hours where practicable.

9.7 Unplanned outages. In the event of an unplanned outage or service disruption, Foxbyte will notify affected Clients as soon as reasonably practicable and provide updates until the issue is resolved. For significant incidents, Foxbyte will provide a post-incident summary outlining the cause and steps taken to reduce recurrence where appropriate.

9.8 No breach for reasonable downtime. Planned maintenance and unplanned outages do not constitute a breach of this agreement provided Foxbyte acts reasonably and communicates promptly with affected Clients.

9.9 No service level credits. Unless expressly stated in an Order Form, response times are targets only and no service level credits, refunds, or other remedies apply for failure to meet a target response time.

10.- Intellectual property

10.1 Foxbyte IP. Foxbyte and its licensors retain all rights, title, and interest in Foxbyte IP. The Client must not dispute Foxbyte's ownership of Foxbyte IP during or after the Term.

10.2 Client Content. The Client retains all rights, title, and interest in Client Content. Foxbyte may use Client Content only as permitted by this agreement or as otherwise authorised in writing by the Client.

10.3 Feedback. If the Client or its Users provide suggestions, ideas, enhancement requests, comments, or feedback about Pulse, Foxbyte may use that feedback without restriction or payment, provided Foxbyte does not disclose Client Confidential Information or Client Content in doing so.

10.4 Custom workflows and integrations. Custom workflows and integrations built by Foxbyte for the Client are developed using Foxbyte's expertise, tools, templates, libraries, know-how, and intellectual property. Unless an Order Form expressly states otherwise:

(a) Foxbyte retains ownership of the underlying workflow logic, structure, generic components, technical components, tools, templates, code, and methods;

(b) the Client retains ownership of Client Content and the Client's business-specific configuration, data, and processes incorporated into the workflow;

(c) Foxbyte will not share, reproduce, or make available any Client-specific configuration, data, or identifiable business logic to any third party except as required to provide the services or as authorised by the Client; and

(d) the Client receives a licence to use the custom workflow or integration within Pulse during the Term for the Client's internal purposes.

10.5 Generic workflow components. Foxbyte may develop generic workflow components inspired by client engagements for inclusion in its workflow library, provided those components are anonymised and do not contain Client Content, Client Confidential Information, or identifiable Client business logic.

10.6 Platform improvements. New features and improvements to the core Pulse platform are included as part of the standard subscription unless Foxbyte states that a feature is subject to separate fees, a different plan, or separate commercial terms.

10.7 Infringement mitigation. If Foxbyte reasonably considers that Pulse may infringe third-party intellectual property rights, Foxbyte may, at its option and expense:

(a) obtain the right for the Client to continue using Pulse;

(b) modify Pulse so that it becomes non-infringing without materially reducing core functionality;

(c) replace Pulse with substantially equivalent functionality; or

(d) terminate the affected subscription and refund prepaid Fees for the unused portion of the affected subscription period.

10.8 Exclusive remedy for IP claims. Clause 10.7 sets out the Client's sole remedy for third-party intellectual property claims relating to Pulse, except to the extent a different remedy cannot be excluded by law.

11. Workflow add-ons and enterprise terms

11.1 Workflow add-ons. Pulse provides the foundation platform upon which custom workflows and integrations may be built. Workflow development is an optional add-on service and is not included in the standard subscription unless expressly stated in an Order Form.

11.2 Paid discovery. Where the Client wishes to explore custom workflow development, Foxbyte may conduct a paid discovery session to understand the Client's requirements. Following that session, Foxbyte may provide a written proposal outlining scope, cost, timeline, dependencies, and assumptions.

11.3 No commitment until accepted. Foxbyte is not committed to deliver a custom workflow unless a proposal or Order Form has been accepted in writing by both parties.

11.4 Governing terms for custom work. Custom workflow proposals are governed by this agreement unless the proposal expressly states otherwise.

11.5 Enterprise deployment. Multi-site and multi-department deployment for Enterprise Clients will be scoped and configured case by case. The specific architecture, server configuration, user management structure, security requirements, integrations, and deployment phases will be agreed in writing as part of the Enterprise onboarding process.

11.6 Strategic reviews. Pulse Enterprise Clients may receive quarterly strategic review sessions with the Foxbyte team. These sessions may be conducted remotely or in person by mutual agreement and are intended to review platform usage, identify improvement opportunities, and align Pulse with the Client's evolving business needs.

12.- Confidentiality

12.1 Confidentiality obligation. Each party must keep the other party's Confidential Information confidential and must not use or disclose it except as permitted by this agreement.

12.2 Permitted use. A receiving party may use Confidential Information solely to perform, exercise rights, or receive benefits under this agreement.

12.3 Permitted disclosure. A receiving party may disclose Confidential Information:

(a) to its officers, employees, contractors, professional advisers, insurers, auditors, and service providers who need to know it and are subject to confidentiality obligations;

(b) to the extent required by law, court order, regulator, securities exchange, or government authority, provided the receiving party gives reasonable notice where lawful and practicable; or

(c) with the disclosing party's prior written consent.

12.4 Exclusions. Confidential Information does not include information that the receiving party can demonstrate:

(a) is or becomes public other than through breach of this agreement;

(b) was lawfully known to the receiving party before disclosure;

(c) is lawfully received from a third party without breach of confidentiality; or

(d) is independently developed without use of the disclosing party's Confidential Information.

12.5 Protection standard. Each party must protect Confidential Information using at least reasonable care and no less care than it uses to protect its own comparable confidential information.

12.6 Survival. Confidentiality obligations continue for 5 years after termination, except for trade secrets, Client Content, personal information, security information, and highly sensitive information, for which obligations continue for so long as the information remains confidential.

13.- Warranties, consumer law, and disclaimers

13.1 Mutual authority warranty. Each party warrants that it has authority to enter into and perform this agreement.

13.2 Foxbyte service warranty. Foxbyte warrants that it will provide Pulse and related services with reasonable care and skill.

13.3 No uninterrupted service warranty. Foxbyte does not warrant that Pulse will be uninterrupted, error-free, secure from every possible threat, compatible with every system, or free of defects, or that Foxbyte will correct all defects.

13.4 No implied warranties. To the maximum extent permitted by law, all warranties, conditions, guarantees, and representations not expressly set out in this agreement are excluded.

13.5 Consumer Guarantees Act. If the Client acquires Pulse for business purposes, the Client acknowledges and agrees that, to the extent permitted by the [Consumer Guarantees Act 1993](#), the guarantees under that Act do not apply. If the Client is a consumer or applicable law does not permit exclusion, nothing in this agreement limits or excludes any rights or remedies that cannot lawfully be limited or excluded.

13.6 Fair Trading Act. Nothing in this agreement limits either party's obligations under the [Fair Trading Act 1986](#) to the extent those obligations cannot be excluded. If the parties are in trade and the relevant provisions may lawfully be contracted out of, the parties agree that any such contracting out in this agreement is fair and reasonable.

13.7 Non-excludable rights. If any law implies a guarantee, warranty, condition, or remedy that cannot be excluded, Foxbyte's liability is limited to the maximum extent permitted by that law.

14.- Liability and indemnity

14.1 Liability cap. To the maximum extent permitted by law, Foxbyte's total aggregate liability to the Client in connection with this agreement, Pulse, AI Output, or any related services, whether in contract, tort including negligence, statute, equity, or otherwise, is limited to the total subscription Fees paid by the Client to Foxbyte in the 3 months immediately preceding the event giving rise to the claim.

14.2 Excluded losses. To the maximum extent permitted by law, Foxbyte is not liable for any:

- (a) loss of profit, revenue, business, goodwill, anticipated savings, opportunity, or reputation;
- (b) loss, corruption, or restoration of data, except to the extent caused by Foxbyte's breach of clause 6.10 and subject to the liability cap;
- (c) consequential, indirect, special, punitive, or exemplary loss;
- (d) loss arising from AI Output, including inaccurate, incomplete, or unsuitable AI Output;
- (e) loss arising from third-party services, AI Model Providers, Microsoft, Google Workspace, AWS, Stripe, or other providers outside Foxbyte's reasonable control;
- (f) loss arising from the Client's failure to maintain backups, configure permissions, manage Users, or verify AI Output; or
- (g) loss arising from unauthorised access caused by Client or User acts or omissions.

14.3 Exceptions. Nothing in this agreement limits liability for fraud, wilful misconduct, deliberate breach, or any liability that cannot lawfully be limited or excluded.

14.4 Duty to mitigate. Each party must take reasonable steps to mitigate loss arising in connection with this agreement.

14.5 Client indemnity. The Client indemnifies Foxbyte, its officers, employees, contractors, and agents against all claims, losses, damages, costs, expenses, and liabilities arising from or in connection with:

- (a) the Client's or any User's misuse of Pulse or breach of this agreement;
- (b) the Client's reliance on AI Output without independent verification;
- (c) Client Content, including any allegation that Client Content infringes third-party rights or was unlawfully processed;
- (d) any use of Pulse that violates applicable law, third-party rights, or AI Model Provider policies;
- (e) any claim brought by the Client's customers, employees, contractors, or other third parties arising from the Client's use of Pulse or AI Output; or
- (f) the Client's connected systems, permissions, repositories, or third-party integrations.

14.6 Indemnity procedure. Foxbyte must promptly notify the Client of any claim for which Foxbyte seeks indemnity, provide reasonable cooperation, and not settle the claim in a way that admits Client liability without the Client's prior written consent, not to be unreasonably withheld.

FIFTEENTH.- Suspension and termination

15.1 Minimum term. All Pulse subscriptions are subject to the Initial Term unless otherwise stated in the Order Form.

15.2 Cancellation after minimum term. After the Initial Term, the Client may cancel the subscription by giving 30 days' written notice to Foxbyte.

15.3 Termination for non-payment. Foxbyte may suspend or terminate the subscription for non-payment in accordance with clause 3.4.

15.4 Termination for cause. Either party may terminate this agreement by written notice if the other party commits a material breach and:

(a) the breach cannot be remedied; or

(b) the breach can be remedied but is not remedied within 14 days after written notice requiring remedy.

15.5 Immediate termination or suspension. Foxbyte may immediately suspend access or terminate this agreement by written notice if:

(a) the Client breaches the Acceptable Use Policy;

(b) the Client or any User creates a security risk, legal risk, or material operational risk to Pulse, Foxbyte, another client, or an AI Model Provider;

(c) Foxbyte is required to do so by law, regulator, court order, or AI Model Provider;

(d) the Client becomes insolvent, unable to pay debts as they fall due, enters liquidation, receivership, administration, or similar process, or ceases or threatens to cease business; or

(e) the Client has a change of control that Foxbyte reasonably considers creates a material commercial, security, or competitive risk.

15.6 Effect of termination. On termination or expiry:

(a) the Client's right to access and use Pulse ends;

(b) the Client must pay all Fees accrued up to termination;

(c) Foxbyte will make Client Content available for export in accordance with clause 6.15;

(d) each party must return or destroy the other party's Confidential Information on request, subject to legal obligations and ordinary backup retention; and

(e) clauses intended to survive termination continue, including clauses 1,6,10,12,13,14,15,16,17,and18.

15.7 No refund. Fees are non-refundable except as expressly stated in this agreement, in an Order Form, or as required by law. The setup fee is non-refundable except to the extent required by law.

16. Dispute resolution and governing law

16.1 Good faith discussions. If a dispute arises under or in connection with this agreement, the parties must first attempt to resolve the dispute in good faith through direct discussion between nominated representatives.

16.2 Escalation. If the dispute is not resolved within 10 Business Days after written notice of the dispute, either party may escalate the dispute to senior management of both parties for further good faith discussions.

16.3 Urgent relief. Nothing in this clause prevents either party from seeking urgent injunctive, interlocutory, or equitable relief, or from taking action to protect Confidential Information, intellectual property, security, or data.

16.4 Public statements. Neither party will make public statements about any dispute while resolution is in progress, except as required by law or with the other party's prior written consent.

16.5 Governing law. This agreement is governed by and construed in accordance with the laws of New Zealand.

16.6 Jurisdiction. The parties submit to the exclusive jurisdiction of the New Zealand courts for disputes arising under or in connection with this agreement, subject to any mandatory law that gives a consumer or other party rights that cannot be excluded.

16.7 Clients outside New Zealand. Where a Client is based outside New Zealand, including in Australia, this agreement remains governed by New Zealand law unless otherwise agreed in writing with Foxbyte. Nothing in this agreement excludes any mandatory consumer, privacy, data protection, or other statutory rights that apply and cannot be excluded.

17.0 Notices

17.1 Form of notices. Any notice under this agreement must be in writing and may be delivered personally, by email, or by any other method agreed by the parties.

17.2 Foxbyte notices. Notices to Foxbyte must be sent to:

Foxbyte Ltd

Email: pulse@foxbyte.nz

Address: PO Box 1164, Napier

Attention: James Simmonds:

17.3 Client notices. Notices to the Client must be sent to the contact details specified in the Order Form, onboarding information, account settings, or the Client's last notified contact details.

17.4 Change of details. Each party must notify the other promptly of any change to its notice details.

17.5 Deemed receipt. A notice is deemed received:

(a) if delivered personally, on delivery;

(b) if sent by email, when the sender's email system records successful transmission, unless the sender receives an automated delivery failure notice; and

(c) if received after 5:00 pm or on a non-Business Day at the place of receipt, at 9:00 am on the next Business Day.

18- General

18.1 Entire agreement. This agreement, together with any Order Form, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior agreements, understandings, proposals, representations, and communications, whether written or oral. The parties agree that this clause is fair and reasonable for the purposes of section 50 of the [Contract and Commercial Law Act 2017](#).

18.2 Amendments. Foxbyte may update these terms from time to time by giving reasonable notice. Updates will not materially reduce the Client's rights during a current paid subscription period unless required by law, necessary for security, required by an AI Model Provider, or agreed by the Client. Continued use after an update takes effect constitutes acceptance of the updated terms.

18.3 Assignment. The Client must not assign, transfer, novate, or otherwise deal with its rights or obligations under this agreement without Foxbyte's prior written consent. Foxbyte may assign or novate this agreement to a related company or in connection with a merger, restructure, sale of business, or sale of assets, provided the assignee assumes Foxbyte's obligations.

18.4 Subcontracting. Foxbyte may use subcontractors and subprocessors to provide Pulse, provided Foxbyte remains responsible for its obligations under this agreement.

18.5 Force majeure. Neither party is liable for delay or failure to perform caused by events beyond its reasonable control, including natural disasters, power failures,

internet failures, cyberattacks, war, terrorism, epidemic, labour disputes, government action, provider outages, or failures of third-party infrastructure. This clause does not excuse payment obligations.

18.6 Waiver. A waiver is effective only if in writing and signed or confirmed by the party granting the waiver. A failure or delay to exercise a right is not a waiver.

18.7 Severability. If any provision of this agreement is illegal, invalid, or unenforceable, it will be modified to the minimum extent necessary to make it enforceable, or severed if modification is not possible. The remaining provisions continue in full force.

18.8 Relationship. The parties are independent contractors. Nothing in this agreement creates a partnership, joint venture, employment, agency, fiduciary, or franchise relationship.

18.9 No third-party beneficiaries. Except for Foxbyte indemnified parties under clause 14.5, this agreement does not confer rights on any third party.

18.10 Counterparts and electronic acceptance. This agreement may be signed in counterparts and by electronic signature. The Client may also accept this agreement by clicking to accept, signing an Order Form, paying an invoice, or accessing or using Pulse after being given notice of these terms.

Schedule 1 - Commercial details

Item	Details
Subscription Plan	[Pulse / Pulse Plus /Pulse Growth /Pulse Pro / Enterprise / other]
Initial Term	3 months from setup completion unless otherwise agreed
Subscription Fees	[Insert amount and billing frequency]
Setup Fee	NZ\$2,500 unless otherwise agreed
Payment method	[Stripe / invoice / other]
Payment due date	[Insert]
Included usage parameters	[Insert any agreed usage assumptions or limits]
Hosting or deployment requirements	[Insert, if any]
Support arrangements	As set out in clause NINTH.- unless otherwise agreed
Special conditions	[Insert]

Schedule 2 - Subprocessors and AI Model Providers

Foxbyte will maintain a current list of AI Model Providers and subprocessors used to provide Pulse. As at the Commencement Date, the list may include the following, subject to change in accordance with this agreement:

Provider	Purpose	Notes
Amazon Web Services	Hosting, infrastructure, AWS Bedrock, model inference, storage, vector database infrastructure	Client environments may be hosted using infrastructure located in New Zealand and Australia where available, with AI inference through AWS infrastructure where applicable
OpenAI models via AWS Bedrock	AI model functionality	Where accessed through AWS-hosted services, Client Content is not sent directly by Foxbyte to OpenAI for that processing
Anthropic models via AWS Bedrock	AI model functionality	Where accessed through AWS-hosted services, Client Content is not sent directly by Foxbyte to Anthropic for that processing
OpenAI via Microsoft Azure and Microsoft AI Studio	AI model functionality	Where accessed through AWS-hosted services, Client Content is not sent directly by Foxbyte to OpenAI for that processing.
Perplexity AI (Sonar API)	AI model functionality (AI-powered search & reasoning)	Enterprise API access via the Sonar API. Perplexity maintains a Zero Data Retention policy for API users — prompts and responses are not stored Perplexity. Data is not used to train AI models Perplexity. Subject to Perplexity's enterprise terms and Data Processing Addendum
Google Vertex AI / Gemini	AI model functionality	Enterprise API access; processing subject to Google enterprise terms and data handling practices
Stripe	Payment processing	Applies where the Client pays by card or other Stripe-supported payment method
Microsoft	Identity, Microsoft 365, SharePoint, connector, or repository integration	Applies where the Client connects Microsoft services
Google Workspace / Google Drive	Identity, workspace, connector, or repository integration	Applies where the Client connects Google services

Foxbyte may update this Schedule 2 or maintain the list externally by notice, account notification, or publication at a nominated location. Foxbyte will use reasonable endeavours to notify Clients of material changes to subprocessors that materially affect Client Content processing.