**WHITE LABEL PLATFORM LICENSE AGREEMENT**

***(myyjän näkökulma)***

White Label Platform License Agreement -sopimuspohja on tehty ensisijaisesti myyjän näkökulmasta erityisesti tilanteeseen, jossa ICT-palveluyritys tarjoaa ohjelmistoalustansa (Platform) ostajayrityksen käyttöön ja ostaja saa tuotteilleen ostajannäköisen SaaS/ohjelmistopalvelun. Tässä sopimuspohjassa ostajayritys saa lähinnä vain oman brandinsa näköisen palvelun, mutta itse teknisen ratkaisun toteutus ja kaikki muu toiminnallisuus on ICT-palveluyrityksen kontrollissa. Ostaja maksaa palvelusta erillisen tilauslomakkeen/hinnaston mukaiset maksut.

Sopimuspohjan kaikki kohdat tulee tarkistaa ja muuttaa vastaamaan käytännön tilannetta; on myös huomioitava, että yhden sopimuskoh­dan muuttaminen yleensä vaikuttaa myös sopimuksen muihin lausek­keisiin ja lisämuutokset ovat tällöin tarpeen.

**HUOM.! Tämä sopimuspohja ei sovellu käytettäväksi käytännön tilan­teisiin ilman sopimusjuridisen asiantunti­jan ennakkotarkistusta ja kor­jauksia.**

 ***DRAFT 0.1 – APRIL \_\_, 20\_\_***

**WHITE LABEL PLATFORM LICENSE AGREEMENT**

This White Label Platform License Agreement between **Yhtiö Oy** with principal offices at Pääkatu 1, 00100 Helsinki, Finland (“Yhtiö”) and **Asiakasfirma Oy** offices at Sivukatu 1, 00100 Helsinki, Finland (“Asiakasfirma”) contains the terms which govern the use of the XYZ platform.

**RECITALS**

**WHEREAS**, Yhtiö has developed a proprietary XYZ electronic platform to disseminate xxxxxxxxx information that can be used to create a marketplace for social media content creators, users and/or and agents, and

**WHEREAS**, Asiakasfirma wishes to license the XYZ platform as a White Label Platform (the “Platform”) to source abcd and yyyyy activities.

**NOW, THEREFORE**, acknowledging the receipt of adequate consideration and intending to be legally bound, the parties agree as follows:

**ARTICLE 1 - GRANT OF LICENSE**

**1.1 General.** Yhtiö hereby grants to Asiakasfirma limited, non-exclusive, non-transferable license to use the Platform during the Term, solely for the operation of the Platform (the “License”). The License provides Asiakasfirma with the number of user licenses indicated in an order form (“Order Form”), as the same may be modified from time to time upon mutual written agreement of the parties. Additional user fees beyond those indicated in an Order Form will be paid by Asiakasfirma in accordance with Yhtiö’s current pricing.

**1.2 White Label Branding.** Platform branding includes incorporation of Asiakasfirma’s name and logo and skinning of the site in Asiakasfirma’s selected primary and secondary colors. The standard Platform URL will appear with Asiakasfirma’s selected word as a subdomain of the Platform. Custom URLs, which shall include provision of a Secure Socket Layer (SSL), are available upon request at a one-time fee indicated by Yhtiö. Asiakasfirma is responsible for clearing any trademark or other intellectual property concerns connected with a custom URL as well as securing the URL via a registrar service. A copyright notice with the Yhtiö’s name and Terms of Service shall appear on the Platform. Yhtiö may collect, use, share, sell and store data made available via the Platform solely in connection with the services hereunder. Any other use by the Yhtiö, including sharing or selling data, shall require Asiakasfirma’s prior written consent.

**1.3 Restrictions.** Asiakasfirma shall not

(i) decompile, reverse engineer, or otherwise attempt to obtain the source code for the Platform

(ii) sublicense or allow any third party to use the Yhtiö’s software, except pursuant to the normal operation of the Platform;

(iii) use the name or proprietary logo(s) of Yhtiö without Yhtiö’s prior written consent;

(iv) use the Platform for any purpose other than the operation of the Platform;

(v) use the Platform in a manner that interferes with the use of Platform by Yhtiö, its other customers, users or agents;

 (vi) commence development of an electronic platform for the purpose of offering such electronic platform to other portals, in competition with the Platform or

(vii) use the Platform for illegal or fraudulent use.

**1.4 Incorporation of Yhtiö’s Terms & Conditions.** Usage of the Platform is predicated on the online Terms & Conditions governing users found at http://yyyy.yyy.com/termsandconditions. In the event of any conflict between the online Terms & Conditions governing users and this Agreement, this Agreement shall govern.

**ARTICLE 2 -  ASIAKASFIRMA’S OBLIGATIONS**

Asiakasfirma shall do the following:

**2.1 Supervise Platform Users.** Asiakasfirma shall monitor all users of the Platform to ensure proper use of the Platform in accordance with these terms and the online Terms & Conditions.

**2.2 Comply with Applicable Laws.** Asiakasfirma shall comply with all applicable laws, rules and regulations.

**ARTICLE 3 - FEES**

**3.1 General.** All amounts contemplated under this Agreement (including but not limited to transactions, payments, licensing or training fees, and the like) shall be in Euros (EUR).  Asiakasfirma shall pay to Yhtiö the license fee, transaction fees, and any other fees for services ordered (such as customization fees, support fees, training, etc.) as billed and as set forth in an Order Form.

**3.2 Taxes.** The fees described in this Agreement are exclusive of all state, municipal, or other government excise, sales, use, value-added, gross receipts, personal property, occupational, or other taxes in Finland and Asiakasfirma shall calculate and pay any such tax (excluding taxes on Yhtiö’s net income) that may be due or owing, now or at any time in the future.

**ARTICLE 4 - FUNCTIONALITY OF PLATFORM**

**4.1 Initial Functionality.** Yhtiö may have demonstrated the Platform to Asiakasfirma (the “Demonstration Version”). At the time the Platform is made available to Asiakasfirma, the Platform will have substantially the same “look and feel,” features, and functionality of the Demonstration Version and no fewer features and no less functionality than the base versions of the comparable product delivered to other customers of Yhtiö, except for customized features and functionality separately specified and purchased by other customers.

**4.2 Future Functionality.** Following delivery of the Platform to Asiakasfirma, Yhtiö shall make such additional features and functionality as Yhtiö makes available to its customers generally without charge and without the need for consent of Asiakasfirma. Yhtiö shall give Asiakasfirma notice of such additional features and functionality if they are material to the operation of the Platform.

**ARTICLE 5 – ASIAKASFIRMA’S OBLIGATIONS.**

Asiakasfirma shall

1. use the Platform only in an operating environment (e.g., hardware and software) approved by Yhtiö,
2. install any software updates recommended by Yhtiö, and
3. operate the Platform and perform under this Agreement in accordance with all applicable laws and regulations, including but not limited to securities, privacy, and consumer protection laws.

Asiakasfirma represents and warrants that it has the authorization and permission to add any information it collects, including the information of users, into the Platform, and that all users will be made to agree to the Terms & Conditions of the Platform. Asiakasfirma understands and agrees that it may not issue any press release or make any public announcement(s) relating to this Agreement or the relationship established by this Agreement without the express prior written consent of Yhtiö; however, Asiakasfirma agrees that Yhtiö may make reasonable limited references to Asiakasfirma’s participation with Yhtiö on its corporate website or in its marketing materials (which may include Asiakasfirma’s name, logo, publically available Content samples, screen captures of Asiakasfirma branded website, and aggregated data from launched activities).

**ARTICLE 6 - WARRANTIES**

**6.1 Limited Performance Warranty** Yhtiö warrants that the Platform will perform substantially as demonstrated in the Demonstration Version and will be free of material errors or defects, and that all Services will be performed in a good and workmanlike manner. In the event Asiakasfirma believes that Yhtiö is in violation of this limited performance warranty, Asiakasfirma shall notify Yhtiö in writing and Yhtiö shall use reasonable commercial efforts to correct any error or defect.

**6.2 Warranty of Non-Infringement**

**6.2.1 General** Yhtiö warrants that Asiakasfirma’s use of the Platform as anticipated by this Agreement will not infringe on intellectual property rights of any third party. If a claim is made that Asiakasfirma’s use of the Platform infringes on the intellectual property rights of a third party then Yhtiö will, at its sole expense and as Asiakasfirma’s sole remedy, defend against such claim and pay any final judgment against Asiakasfirma, provided that Asiakasfirma promptly notifies Yhtiö of any such claim in writing and Yhtiö is given sole control over the defense and settlement of such claim. Yhtiö may, without the knowledge or consent of Asiakasfirma, agree to any resolution of the dispute that does not require on the part of Asiakasfirma’s payment or an admission of wrongdoing. Without limiting the preceding sentence, Yhtiö may

(i) seek to obtain through  negotiation the right of Asiakasfirma to continue using the Platform

(ii) rework the Platform so as to make it non-infringing; or

(iii) replace the Platform, as long as the reworked or replacement platform does not result in a material adverse change in the “look and feel” or operational characteristics of the Platform.

**6.2.2 Exceptions** The foregoing warranty shall not apply to infringement caused by

(i) Asiakasfirma’s modification or use of the Platform other than as contemplated by the Agreement;

(ii) Asiakasfirma’s failure to use corrections or enhancements made available by Yhtiö to the extent that such corrections or enhancements would make the Platform non-infringing; or

(iii) information, specification or materials provided by Asiakasfirma or third party acting for Asiakasfirma, which is the cause of such infringement claim.

**6.3 Compliance with Laws** Yhtiö shall use commercially reasonable efforts to conduct its business, and develop the Platform, in compliance with all applicable EU and Finnish laws, rules and regulations.

**6.4 No Other Warranties** EXCEPT FOR THE WARRANTIES SET FORTH IN THE ABOVE SECTIONS, THE PLATFORM, INCLUDING ANY ACCOMPANYING MANUALS AND OTHER MATERIALS, AND THE SERVICES, ARE PROVIDED BY THE YHTIÖ “AS IS,” WITHOUT WARRANTY OF ANY KIND, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR ANY WARRANTY THAT THE PLATFORM WILL BE ERROR-FREE OR OPERATE WITHOUT INTERRUPTION, OR THAT THE PLATFORM WILL MEET THE ASIAKASFIRMA’S REQUIREMENTS, AND ANY WARRANTIES IMPLIED BY LAW, BY THE COURSE OF DEALING BETWEEN THE PARTIES, OR OTHERWISE, ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

**ARTICLE 7 - CONFIDENTIALITY**

**7.1.  Confidentiality**

**7.1.1  Included Information** For purposes of this Agreement, the term “Confidential Information” means all confidential and proprietary information of a party, including but not limited to

(i) financial information, (ii) business and marketing plans, (iii) the names of employees, owners, and third party contractors to the extent such is not public information, (iv) the names, email addresses, and other personally-identifiable information of users of the Platform, (v) security codes, and (vi) all documentation provided by Yhtiö.

**7.1.2 Excluded Information** For purposes of this Agreement, the term “confidential and proprietary information” shall not include information which, as can be proven by written record,

(i) was or becomes generally available to the public other than as a result of a disclosure by the Receiving Party (as defined below) or its directors, officers, employees, agents, contractors or advisors (“Representatives”); (ii) was or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party (as defined below) or its advisors, provided that such source is not bound by a confidentiality obligation with Disclosing Party; (iii) was within the Receiving Party’s possession prior to it being furnished to the Receiving Party by or on behalf of the Disclosing Party provided the source of such information was not bound by a confidentiality obligation owed to the Disclosing Party with respect thereto; or (iv) was developed by the Receiving Party independent of any use or reference to the Confidential Information.

**7.1.3 Confidentiality Obligations** During the Term and at all times thereafter, neither party shall disclose Confidential Information of the other party or use such Confidential Information for any purpose other than in furtherance of this Agreement. Without limiting the preceding sentence, each party shall use at least the same degree of care in safeguarding the other party’s Confidential Information as it uses to safeguard its own Confidential Information. Notwithstanding the foregoing a party may disclose Confidential Information (i) if required to do so by legal process, provided that such party shall notify the other party prior to such disclosure so that such other party may attempt to prevent such disclosure or seek a protective order; or (ii) to any applicable governmental authority as required in the operation of such party’s business, and even then, limited to no more than the minimum information required.

**7.2 Injunctive Relief** The parties acknowledge that a breach of this article will cause the damaged party great and irreparable injury and damage, which cannot be reasonably or adequately compensated by money damages. Accordingly, each party acknowledges that the remedies of injunction and specific performance shall be available in the event of such a breach, in addition to money damages or other legal or equitable remedies.

**ARTICLE 8 - RESPONSIBILITY FOR OPERATION OF PLATFORM**

The parties agree that Asiakasfirma, and not Yhtiö, is primarily responsible for the operation of the Platform. The role of Yhtiö is only to provide the Platform and the services. Yhtiö does not act as nor take on the responsibility or liability of a fiduciary, business or legal advisor, or co-venturer. Asiakasfirma shall be solely responsible for ensuring that it operates the Platform in accordance with applicable laws, for monitoring the content displayed on the Platform, and for establishing the terms of its relationships with users of the Platform. Yhtiö is not responsible for any information or content displayed on or transmitted through the Platform.

**ARTICLE 9 - TERM AND TERMINATION**

**9.1**The term of this Agreement shall be for the period indicated in an Order Form (the “Term”) and, unless earlier terminated for cause in accordance with this Agreement, will continue for the duration of any Term or renewal term set forth in an applicable Order Form. Except as otherwise specified in the applicable Order Form, the Term shall automatically renew for twelve-month periods, unless either party gives the other notice of non-renewal at least thirty (30) days before the end of the relevant Term.

**9.2 Termination for Cause** This Agreement may be terminated at any time, if either party fails to perform any of its material obligations hereunder and such failure continues for fourteen (14) days following written notice from the non-breaching party. For these purposes (i) any obligation of Asiakasfirma to pay any amount to Yhtiö shall be treated as a material obligation, and (ii) if Asiakasfirma fails to make a required payment by the due date and fails to remedy such non-payment in 14 days, Yhtiö may, in its discretion, immediately terminate this Agreement and any access to the Platform without giving written notice of such failure or any additional failure.

**9.3 Effect of Termination** Upon any termination of this Agreement, the License shall terminate and Asiakasfirma shall have no further rights in the Platform. Asiakasfirma shall be still obligated to pay Yhtiö all amounts owed for the remaining term pursuant to this Agreement and any outstanding Order Form.

**ARTICLE 10 - INTELLECTUAL PROPERTY**

Yhtiö is the exclusive owner of the Platform and all of the intellectual property rights associated with the Platform, including software and copyrights, even if Yhtiö incorporates into the Platform suggestions made by Asiakasfirma. Asiakasfirma shall not receive any form of compensation for ideas, modifications, suggestions or improvements made to the Platform.

**ARTICLE 11 - LIMITATION OF CLAIMS AND DAMAGES**

**11.1 Limitation of Claims** THE YHTIÖ SHALL NOT BE LIABLE TO THE ASIAKASFIRMA OR ANY THIRD PARTY UNDER ANY CIRCUMSTANCES (EVEN IF THIS AGREEMENT IS TERMINATED) FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFIT, REVENUE, BUSINESS OPPORTUNITY OR BUSINESS ADVANTAGE), WHETHER BASED UPON A CLAIM OR ACTION OF TORT, CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, BREACH OF STATUTORY DUTY, CONTRIBUTION, INDEMNITY OR ANY OTHER LEGAL THEORY OR CAUSE OF ACTION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**11.2.  Limitation of Damages** THE YHTIÖ’S TOTAL LIABILITY UNDER OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE CAUSE OR FORM OF ACTION, AND WHETHER BEFORE OR AFTER ITS TERMINATION, SHALL NOT EXCEED THE TOTAL OF ALL AMOUNTS PAID TO THE YHTIÖ BY ASIAKASFIRMA.

**ARTICLE 12 - INDEMNIFICATION BY ASIAKASFIRMA**

**12.1 Obligation to Indemnify** Asiakasfirma shall indemnify and hold harmless Yhtiö, its licensors, service providers, and their respective affiliates, managers, agents and employees, from and against all losses, costs, and expenses, including reasonable attorneys’ fee, from third party claims (including claims made by creators) arising from (i) any materials provided, published, or disseminated by Asiakasfirma, (ii) Asiakasfirma acts or omissions in the operation of the Platform (including claims of failure to make payments), including a breach of Asiakasfirma’s obligations or covenants contained in this Agreement, and (iii) any acts or omissions of users introduced to the system by Asiakasfirma or in connection with Asiakasfirma’s transactions.

**12.2  Notice and Defense of Claims** An indemnified party (“Indemnified Party”) will promptly notify the indemnifying party (“Indemnifying Party”) of any claim for which it believes it is entitled to indemnification under the preceding paragraph. Indemnifying Party may, but shall not be required to, assume control of the defense and settlement of such claim provided that

(i) such defense and settlement shall be at the sole cost and expense of Indemnifying Party

(ii) Indemnifying Party shall be permitted to control the defense of the claim only if Indemnifying Party is financially capable of such defense and engages the services of a qualified attorney, each in the reasonable judgment of the Indemnified Party;

(iii) Indemnifying Party shall not thereafter withdraw from control of such defense and settlement without giving reasonable advance notice to Indemnified Party;

(iv) Indemnified Party shall be entitled to participate in, but not control, such defense and settlement at its own cost and expense;

(v) before entering into any settlement of the claim, Indemnifying Party shall be required to obtain the prior written approval of Indemnified Party, which shall be not unreasonably withheld, if pursuant to or as a result of such settlement, injunctive or other equitable relief would be imposed against Indemnified Party; and

(vi) Indemnifying Party will not enter into any settlement of any such claim without the prior written consent of Indemnified Party unless Indemnifying Party agrees to be liable for any amounts to be paid to the third party pursuant to such settlement and is financially able to do so.

**ARTICLE 13 - MISCELLANEOUS**

**13.1 Amendments; Waivers** No amendment, modification, or waiver of any provision of this Agreement shall be binding unless in writing and signed by the party against whom the operation of such amendment, modification, or waiver is sought to be enforced. No delay in the exercise of any right shall be deemed a waiver thereof, nor shall the waiver of a right or remedy in a particular instance constitute a waiver of such right or remedy generally.

**13.2 Notices** Any notice or document required or permitted to be given under this Agreement may be given by a party or by its legal counsel and shall be deemed to be given by electronic mail with transmission acknowledgment, yyyyy@yyyyy.com if to Yhtiö, or to the email address and point of contact on file for to Asiakasfirma, or to such other email address or addresses as the parties may designate from time to time by notice satisfactory under this article.

**13.3 Governing Law** This Agreement shall be governed by the laws of Finland

**13.4  Disputes** Any disputes concerning this Agreement, which cannot be settled between the Parties, shall be finally settled in arbitration in Helsinki, Finland by one (1) arbitrator in accordance with the rules of Finland Chamber of Commerce.

**13.5.  Assignment** Asiakasfirma may not assign its rights or obligations under this Agreement without the prior written consent of Yhtiö.

**13.6 Force Majeure.** Neither party shall be entitled to recover damages or terminate this Agreement by virtue of any delay or default in performance by the other party (other than a delay or default in the payment of money) if such delay or default is caused by Acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected; provided that the party experiencing the difficulty shall give the other prompt written notice following the occurrence of the cause relied upon, explaining the cause and its effect in reasonable detail. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

**13.7 Entire Agreement.** This Agreement constitutes the entire agreement between Yhtiö and Asiakasfirma with respect to the subject matter contained herein and supersedes all prior agreements and understandings.

**DATE: DATE:**

**PLACE: PLACE:**

**YHTIÖ OY ASIAKASFIRMA OY**

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