



Opera Discover Enhanced Publisher Agreement

This Enhanced Publisher Agreement (“*Agreement*”) is entered into by and between Opera Software AS (“*Opera*”) and the undersigned publisher of online content (“*Publisher*”). This Agreement sets forth the terms and conditions applicable to the technical cooperation between Publisher and Opera to effectively drive traffic from Opera’s content recommendation service (“*Discover Service*”) to the digital content offered by Publisher to end users via its Web properties (“*Content*”).

Preamble

The Discover Service consists of Opera’s proprietary recommendation engine offering end users one click access to recommendations aggregating links to content from multiple sources. Recommendations are both specific to the end user’s location as well as personalized based on the end user’s interests. By participating in the Enhanced Publisher program, a publisher has the opportunity to work with Opera on a technical level to enhance and drive traffic from the Discover Service to the publisher’s content.

Terms & Conditions

- 1. Discover Recommendations.** Publisher shall make Content available to end users in its sole discretion via Publisher’s web properties, including via Publisher’s HTML/AMP-HTML web pages and related RSS feeds, XML feeds, or other similar technologies (“*Publisher Properties*”). From the materials made available via the Publisher Properties, Opera shall generate recommendations within the Discover Service promoting the consumption of Publisher’s Content (“*Recommendation Cards*”). Recommendation Cards generated by the Discover Service may contain, when available, a title, source credit, short text excerpt, image and/or other associated summary materials about the Content.
- 2. Content Presentation.** The Discover Service is integrated into certain of Opera’s software applications, including in particular Opera’s Internet browsers, such that end users may navigate from the Recommendation Card in Opera’s Discover Service to the Content. Publisher understands and acknowledges that these Opera software applications provide end users with various tools and features to enhance the end user experience including intelligent reformatting, compression, caching, off-line reading and enhanced readability. Access to the Discover Service shall be free to end users. Opera shall not charge end users any fee for access to Publisher’s Content. The Parties shall work together in a commercially reasonable manner to ensure that the Publisher Properties are compatible with the Discover Service. Each party shall bear its own costs in fulfilling its rights and obligations under this Agreement.
- 3. Advertising.** Publisher authorizes Opera to source and serve advertisements against Publisher’s Content. The commercial terms associated with such election are set forth in Exhibit A to this Agreement, which is incorporated herein by this reference. Opera shall use commercially reasonable efforts to ensure that its advertising service providers do not display advertising materials containing, *inter alia*, content promoting hatred, violence, racism, pornography, or sexual, religious, or political intolerance. Any advertising materials found to be in contravention of the foregoing shall be removed as soon as reasonably possible following discovery of such non-compliance.
- 4. License and IP Rights.** Publisher grants Opera a limited, non-exclusive, worldwide, royalty-free license and right to use, copy, display, modify and/or reformat the Content solely as necessary to generate Recommendation Cards within the Discover Service and make such Content available to end users of Opera’s software applications as contemplated in this Agreement. Nothing in this Agreement shall be deemed or construed as an assignment by a party to the other party of any intellectual property rights which are the property of a party. Subject to the licenses granted above, Publisher and its suppliers retain sole and exclusive right, title and interest to the Content and Brand Features, and the intellectual property rights embodied therein. Opera and its suppliers own and retain sole and exclusive right, title and interest to the Discover Service and the intellectual property rights embodied therein.
- 5. Disclaimers & Acknowledgments.** Publisher shall have no obligation to make available any particular instance of Content and may withdraw any piece of Content at any time in its sole discretion.



Opera shall have no obligation to recommend any particular instance of Content and may in its sole discretion withdraw any recommendations, or cease offering the Discovery Service, at any time.

6. Marketing. Publisher grants to Opera and its suppliers a limited, non-exclusive, worldwide, royalty-free license to use its trademarks, trade names, designs and logos ("*Brand Features*"), in accordance with Publisher's usage guidelines, if and as provided by Publisher, solely for use in connection with the Content, in the Discover Service and presentations, marketing materials, customer lists, financial reports and Web site listings of customers related to the Discover Service. All use of Publisher's Brand Features, and all goodwill associated therewith, shall inure solely to the benefit of Publisher.

7. Term & Termination. This Agreement shall continue in effect until terminated. Either party may terminate this Agreement for any reason by delivery of a written notice to the other party at least ninety (90) days prior to the effective date of termination. Upon termination of this Agreement, the licenses granted in Sections 4 and 6 shall automatically expire. Sections 9 through 15 of this Agreement will survive termination of this Agreement by either party.

8. Warranties. Opera hereby represents and warrants that: (a) the Discover Service complies with all applicable laws and regulations; and (b) Opera has all necessary rights to offer the Discover Service to end users without infringement of any copyright, trademark, patent, publicity right, or other intellectual property right. Publisher hereby represents and warrants that: (x) the Content complies with all applicable laws and regulations; and (y) Publisher has all necessary rights to offer the Content to end users without infringement of any copyright, trademark, patent, publicity right, or other intellectual property right. Except for the express representations and warranties set forth in this Agreement, neither Publisher nor Opera make any other representations or warranties. Each party expressly disclaims all other representations or warranties.

9. Indemnification. Opera hereby agrees to indemnify and defend Publisher from and against all claims, demands, actions, proceedings, liabilities, costs, and expenses based on any claim that arises as a result of Opera's breach of any warranty or representation set forth herein. Publisher hereby agrees to indemnify and defend Opera from and against all claims, demands, actions, proceedings, liabilities, costs, and expenses based on any claim that arises as a result of Publisher's breach of any warranty or representation set forth herein.

10. Limitation of Liability. In no event will either party be liable for any special, punitive, or exemplary damages arising out of or related to this Agreement, even if such party knew of or should have known of the possibility of such damages. In no event shall either party's total cumulative liability for all claims arising out of or related to this Agreement exceed 10,000 USD. The parties agree that this Section reflects a reasonable allocation of risk and that each party would not enter into this Agreement without these limitations on liability.

11. Confidentiality. For purposes of this Agreement, "Confidential Information" means material non-public information that a party or its affiliates ("*disclosing party*") discloses to the other party or its affiliates ("*receiving party*") which is designated as being 'proprietary' or 'confidential' or which by its nature or the circumstances reasonably ought to be treated as confidential. Confidential Information does not include information which (a) is known by the receiving party, free of any obligation to keep it confidential; (b) is at the time of disclosure, or thereafter becomes, publicly available through no wrongful act of the receiving party; (c) is independently developed by the receiving party, without relying on or referring to the Confidential Information of the disclosing party; or (d) is approved for release by prior written authorization of the disclosing party. Neither party shall disclose the other party's Confidential Information to any third party or use Confidential Information for any purpose other than for the proper fulfillment of this Agreement. Each party undertakes to safeguard the Confidential Information of the other party with the same degree of care as it would apply to its own Confidential Information and, in any case, with no less than reasonable care. Such obligations will survive the expiration of this Agreement for a period of three (3) years.

12. Data protection. Each party agrees to comply with all applicable data protection and privacy laws arising from its obligations under the Agreement and to reasonably cooperate in order to comply with such laws as deemed necessary from time to time.

13. General. Publisher and Opera hereby agree that: (i) if any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force and effect; (ii) the waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach; (iii) nothing in this Agreement will be deemed to create an agency, employment, partnership, fiduciary, or joint venture relationship between the parties; and (iv) this Agreement is the entire agreement between the parties and supersedes all other agreements, arrangements, or understandings in relation to the subject matter of this Agreement.

14. Governing law. Arbitration of disputes. The choice of law and dispute resolution provision set forth below shall apply based on the registered address of the Publisher as identified at the end of this Agreement. Nothing in this Section 14 will be deemed as preventing either party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the parties and the subject matter of the dispute as is necessary to protect either party's name, proprietary information, trade secrets, know-how, or any other intellectual property rights.

- A. If Publisher's registered address is in **North, Central or South America, or in the Caribbean**, this Agreement shall be governed by the laws of New York, USA (but not the law of conflicts), and any disputes arising out of or in connection with this Agreement shall be referred to and finally resolved by arbitration in the New York County, New York before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures. The arbitrator may allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party.
- B. If Publisher's registered address is in **Japan, Australia, New Zealand, South Asia, South-Central Asia, South-East Asia, or East Asia**, this Agreement shall be governed by the laws of England and Wales, and any disputes arising out of or in connection with this Agreement shall be referred to and finally resolved by arbitration in English in accordance with the UNCITRAL Arbitration Rules for the time being in force at the commencement of the arbitration. The place of arbitration shall be Singapore before a tribunal of three arbitrators, one to be appointed by each of the parties and the third by the two so chosen, unless the parties have agreed to the appointment of a sole arbitrator. The parties agree that the seat of the arbitration shall remain in London.
- C. If Publisher's registered address is in **Europe, the Confederation of Independent States (CIS), Africa, South-West Asia / Middle East** or any other regions of the world not otherwise identified in this Section 14, this Agreement shall be governed by the laws of Norway (but not the law of conflicts), and any disputes arising out of or in connection with this Agreement shall be referred to and finally resolved by arbitration in Oslo, Norway pursuant to the Norwegian Act on Arbitration of 2004.

15. Assignment. Notices. Neither party shall assign any of its rights nor delegate any of its obligations under this Agreement to any third party without the prior written consent of the other party, provided that consent shall not be required in connection with the reorganization or merger of a party or the transfer of such party's business or all or substantially all of its assets to a third party. All notices required or permitted by this Agreement must be in writing and delivered to the address set forth below. Either party may update its address at any time on notice to the other party.



IN WITNESS WHEREOF, the parties hereto have executed this Enhanced Publisher Agreement on this ____ day of _____, 20__:

Publisher:

Legal Name _____
Registered Address: _____
Authorized Signature: _____
Printed Name: _____
Title: _____
Date: _____
Accounts Receivable Email: _____

Opera Software AS:

P.O. Box 4214 Nydalen
NO-0401 Oslo
Norway

Authorized Signature: _____
Printed Name: _____
Title: _____
Date: _____



EXHIBIT A PUBLISHER ELECTION

Publisher authorizes Opera to source and serve advertisements on the web pages displaying Publisher's Content. Opera shall pay a percentage of its revenue from such advertisements to Publisher as follows:

- i. Opera will pay Publisher fifty percent (50%) of Opera's Net Advertising Revenue, where "*Net Advertising Revenue*" means all amounts actually collected by Opera from advertisers and/or ad networks for the placement of advertisements on a webpage displaying Publisher's Content, less VAT or other applicable taxes and less fees paid to or deducted by a third party in connection with the placement of advertisements, including without limitation, advertising agency, ad serving or advertising network fees
- ii. Within twenty (20) days after the end of each calendar quarter, Opera will issue a summary report by email to the address provide by Publisher. This report will include the total Net Advertising Revenue for the preceding calendar quarter and the total amount payable to Publisher ("*Publisher Payout*").
- iii. Each party acknowledges and agrees that Net Advertising Revenue for any month may be subsequently restated if: (a) a third party fails to pay amounts due as part of Net Advertising Revenue, or (b) a third party restates the amounts due and payable as part of Net Advertising Revenue. Publisher acknowledges that the reporting provided by Opera is definitive and binding and no other measurement or usage statistic shall have any bearing on this Agreement.
- iv. The Publisher Payout will be paid by Opera to Publisher within forty-five (45) days of Opera's receipt of a true and accurate invoice sent as a .pdf by email to opera.software@bscs.basware.com. Other communications with Opera's accounts payable department (other than invoices) should be sent to ap-help@opera.com. All payments by Opera shall be made in USD via wire transfer (no checks) to the account identified in Publisher's invoice. If the total amount owed in any given calendar quarter is less than one-thousand (1,000) United States Dollars, the amount will be retained by Opera until such time as the total amount payable to exceeds 1,000 USD. Accumulated amounts shall not accrue any interest.
- v. Opera will maintain accurate books of account and records in sufficient detail to properly determine that the fees payable under this Agreement have been calculated correctly for at least three (3) years following the end of the calendar quarter to which they pertain. Opera will make available such books and records for inspection during this period by a certified public accountant commissioned for the purpose of verifying the correctness of payments. Such inspections may be made no more than once in each calendar year at reasonable times mutually agreed by the parties upon thirty (30) days' notice to Opera. The certified public accountant must execute a reasonable confidentiality agreement prior to commencing any such inspection.
- vi. Publisher shall not induce any person to click on advertisements based on any incentive or rewards program or use any automated or misleading process of any kind to generate clicks on advertisements.