

# DATA PROCESSING ADDENDUM

Last updated on November 23 2022

This Hypehound Data Processing Addendum (“**Addendum**”) amends and forms a part of the written or electronic agreement(s) (the “**Agreement**”) by and between the legal entity subject to the Agreement (“**Customer**”) and Hypehound Inc. (“**Hypehound**”), an Ontario, Canada corporation with offices at 124D 250 Fountain Place, Ottawa, Ontario, K1N9N7, governing the Customer’s use of Hypehound’s products and services (the “**Service**”). Capitalized terms not otherwise defined in this Addendum shall have the same definitions as in the Agreement or the meaning ascribed to the corresponding terms in the Data Protection Legislation.\*\*

## Definitions

1. “**Business**”, “**Controller**”, “**Processor**”, “**Processing/Process/ Processed**”, and “**Service Provider**” shall be given the meanings given to them by the applicable Data Protection Legislation.
2. “**Data Subject**” means the identified or identifiable natural person to whom Personal Information relates.
3. “**Data Subject Request**” means the exercise by Data Subjects of their rights in accordance with applicable Data Protection Legislation in respect of Personal Information.
4. “**Data Protection Legislation**” means, collectively: (i) the GDPR, (ii) the California Consumer Privacy Act, as amended by the California Privacy Rights Act of 2020, codified at Cal. Civ. Code §§ 1798.100 – 1798.199.100 (“**CCPA**”), (iii) any legislation, and/or regulation implementing or made pursuant to them or which amends, replaces, re-enacts or consolidates any of them, (iv) applicable data breach notification statutes, and (v) all other applicable laws relating to Processing of Personal Information and privacy that may exist in any relevant jurisdiction, to the extent applicable to the relevant Personal Information or Processing thereof under the Agreement.
5. “**EEA**” means the European Economic Area.
6. “**GDPR**” stands for “**General Data Protection Regulation**” and means: (i) the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (“**EU GDPR**”); (ii) the EU GDPR as it forms part of United Kingdom (“**UK**”) law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 (“**UK GDPR**”); and (iii) any applicable implementing or supplementary legislation in any member state of the EEA or the UK (including the UK Data Protection Act 2018).

7. **“Personal Information”** means information that constitutes **“Personal Data,”** **“Personal Information,”** **“Personally Identifiable Information,”** or similar information as defined by applicable Data Protection Legislation that Hypehound Processes pursuant to the Agreement.
8. **“Personal Data Breach”** means a breach of Hypehound’s security that has resulted in the accidental or unlawful destruction, acquisition, loss, alteration, unauthorized disclosure of, or access to, Personal Information in Hypehound’s possession, custody or control. Personal Data Breaches do not include unsuccessful attempts or activities that do not compromise the security of Personal Information, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, or other network attacks on firewalls or networked systems.
9. **“Relevant Body”** (i) in the context of the UK and the UK GDPR, means the UK Information Commissioner’s Office and/or UK Government (as and where applicable); and/or (ii) in the context of the EEA and EU GDPR, means the European Commission.
10. **“Restricted Country”** (i) in the context of the UK, means a country or territory outside the UK; and (ii) in the context of the EEA, means a country or territory outside the EEA (which shall, as and where applicable, be interpreted in line with Article FINPROV.10A(1) of the Trade and Cooperation Agreement between the EU and the UK), that the Relevant Body has not deemed to provide an ‘adequate’ level of protection for Personal Information pursuant to a decision made in accordance with Article 45(1) of the GDPR.
11. **“Restricted Data Transfer”** means the disclosure, grant of access or other transfer of Personal Information to: (i) in the context of the EEA, any country or territory outside the EEA which does not benefit from an adequacy decision by the European Commission pursuant to Article 45 of the GDPR; and (ii) in the context of the UK, any country or territory outside the UK which does not benefit from an adequacy decision by the UK Information Commissioner’s Office pursuant to Article 45 of the GDPR.
12. **“Security Measures”** means the technical and organizational security measures to be applied by Processor in respect of the Personal Information, as set out in Appendix 2.
13. **“Standard Contractual Clauses”** or **“SCCs”** means (i) where the GDPR applies, the clauses annexed to European Commission Implementing Decision (EU) 2021/914 of 4 June 2021, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32021D0914&from=EN> (**“EU SCCs”**); and (ii) where the UK GDPR applies, the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses issued by the UK Information Commissioner under Section 119A(1) Data

Protection Act 2018 (“**UK IDTA**”) (in each case, as updated, amended or superseded from time to time).

14. “**Subprocessors**” means the relevant subprocessors listed on [hypehound.io/subprocessors](https://hypehound.io/subprocessors).
15. “**Supervisory Authority**” means: (i) in the context of the EU GDPR, any authority within the meaning of Article 4(21) of the EU GDPR; and (ii) in the context of the UK GDPR, the UK Information Commissioner’s Office.
16. “**UK**” means the United Kingdom of Great Britain and Northern Ireland.

## **Data Protection**

1. In the course of Hypehound providing the Service under the Agreement, Customer may from time-to-time provide or make available Personal Information to Hypehound for the limited and specific purposes of providing the Service under the Agreement. The Parties acknowledge and agree that, in relation to any such Personal Information provided or made available to Hypehound for Processing by Hypehound under the Agreement, the Customer will be the Controller and Hypehound will be the Processor for the purposes of the GDPR and the Customer will be the Business and Hypehound will be the Service Provider for purposes of the CCPA.
2. When Hypehound Processes Personal Information in the course of providing the Service, Hypehound will:
  - a. process the Personal Information as a Data Processor, for the purpose of providing the Service in accordance with documented instructions from the Customer (provided that such instructions are commensurate with the functionalities of the Service), to perform Hypehound’s obligations and exercise Hypehound’s rights under the Agreement, including to maintain records relating to the Service and comply with any legal or self-regulatory obligations relating to the Service, and as may subsequently be agreed to by the Customer. Hypehound is prohibited from retaining, using, or disclosing Personal Information provided by Customer (“Customer Data”) for any purpose other than for the specific purpose of performing the Services specified in the Agreement. If Hypehound is required by applicable laws to Process the Personal Information for any other purpose, Hypehound will provide the Customer with prior notice of this requirement, unless Hypehound is prohibited by such laws from providing such notice;
  - b. not sell, rent, release, disclose, disseminate, make available, transfer, or otherwise communicate Customer Data to any third party for monetary or other valuable consideration. Hypehound shall not share, as defined by applicable Data Protection Legislation, any Customer Data;

- c. commencing January 1, 2023, Hypehound will not combine any Personal Information that Hypehound receives from, or on behalf of, Customer with information that it receives from, or on behalf of, another source provided that Hypehound may combine Personal Information as authorized by Data Protection Legislation.
- d. notify the Customer if, in Hypehound's opinion, the Customer's instruction for the Processing of Personal Information infringes applicable Data Protection Legislation;
- e. notify the Customer promptly, to the extent permitted by law, upon receiving an inquiry or complaint from a Supervisory Authority relating to Hypehound's Processing of the Personal Information;
- f. upon Customer's written request, provide Customer with such assistance as may be reasonably necessary and technically feasible in fulfilling its legal obligations under Data Protection Legislation, including data protection impact assessments and prior consultations with Supervisory Authorities which Hypehound reasonably considers to be required of it by Data Protection Legislation, in each case solely in relation to Processing of Personal Information by, and taking into account the nature of the Processing by, and information available to, Hypehound;
- g. upon the Customer's written request, provide the Customer with such reasonable assistance as may be necessary and technically possible, taking into account the nature and circumstances of the processing and Hypehound's role as a processor, to allow the Customer to fulfill its obligation to respond to Data Subject Requests;
- h. upon receipt of any Data Subject Request that relates to Personal Information that Hypehound Processes for the Customer, Hypehound may advise the Data Subject to submit the request to Customer and Customer is solely responsible for responding to any such requests. Hypehound's notification of or response to a Data Subject Request under this Section is not an acknowledgement by Hypehound of any fault or liability with respect to the Data Subject Requests;
- i. implement and maintain appropriate technical and organizational measures designed to protect the Personal Information and ensure a level of security appropriate to the risk. Hypehound's measures comprise those documented in the Security Measures listed in Appendix 2;
- j. provide the Customer, upon the Customer's reasonable written request, with up-to-date attestations, reports or extracts thereof, where available, from a source charged with auditing Hypehound's data protection practices (e.g., external auditors, internal audit, data protection auditors),

or suitable certifications, to enable the Customer to assess compliance with the terms of this Addendum;

- k. reasonably ensure its employees, agents, and service providers, comply with the obligations and restrictions applicable to Hypehound under applicable Data Protection Legislation. Hypehound shall reasonably notify Customer if it makes a determination that it can no longer meet its obligations. Upon such notification, Customer may take reasonable steps to remediate any unauthorized use of Customer Data;
  - l. notify the Customer promptly upon becoming aware of and confirming any Personal Data Breach impacting Customer Data. The Customer is solely responsible for complying with Data Breach notification laws applicable to the Customer and fulfilling any third-party notification obligations related to any Personal Data Breach. Hypehound's notification of, or response to, a Personal Data Breach under this Section is not an acknowledgement by Hypehound of any fault or liability with respect to the Personal Data Breach;
  - m. ensure that its personnel who access the Personal Information have committed themselves to confidentiality or are under appropriate statutory obligations of confidentiality; and
  - n. upon termination of the Agreement or expiry of Service involving the Processing of Personal Information, Hypehound shall cease all Processing of Personal Information related to such Service except as set out in this Section. Hypehound will promptly initiate its process to delete or anonymize the Personal Information, subject to Hypehound retaining any copies required by applicable laws (and in that case, for such period as may be required by such applicable laws). If the Customer requests a copy of such Personal Information within 30 days of termination, Hypehound will provide the Customer with a copy of such Personal Information.
3. The Customer shall ensure that it is entitled to give access to the relevant Personal Information to Hypehound so that Hypehound may lawfully Process Personal Information in accordance with the Agreement on the Customer's behalf. The Customer shall:
- a. comply with its obligations under the Data Protection Legislation which arise in relation to this Addendum, the Agreement and the receipt of the Service;
  - b. not do or omit to do anything which causes Hypehound (or any Subprocessor) to breach any of its obligations under the Data Protection Legislation; and

- c. to the extent Customer receives any inquiry or request regarding Hypehound's compliance with Data Protection Legislation, reasonably inform Hypehound of the inquiry or request and any necessary information.
4. In the course of providing the Service, the Customer acknowledges and agrees that Hypehound may use Subprocessors to Process the Personal Information. Hypehound's use of any specific Subprocessor to Process the Personal Information must be in compliance with Data Protection Legislation and must be governed by a contract between Hypehound and the Subprocessor. Hypehound will notify the Customer of any changes to the list of Subprocessors at [hypehound.io/subprocessors](https://hypehound.io/subprocessors) concerning the addition or replacement of other Subprocessors. Customer acknowledges it needs to review the list after being notified and may object to such changes in writing setting out its reasonable concerns in detail within 14 days from the date of the notification. If the Customer does not object to such changes, Hypehound shall have the right to continue to Process the Personal Information in accordance with the terms of this Addendum, including using the relevant subprocessors. If the Customer objects, Hypehound shall consult with the Customer, consider the Customer's concerns in good faith and inform the Customer of any measures taken to address the Customer's concerns. If the Customer upholds its objection and/or demands significant accommodation measures which would result in a material increase in cost to provide the Services, Hypehound shall be entitled to increase the fees for the Service or, at its option, terminate the Agreement.
5. As part of providing the Service, Data Subject's Personal Information will be Processed in the United States. Such Processing will be completed in compliance with relevant Data Protection Legislation.
6. Customer acknowledges and hereby agrees that Hypehound may transfer to, access and process Personal Information in a Restricted Country, as necessary to provide the Service in accordance with the Agreement. Hypehound will make any such Restricted Data Transfers in compliance with the applicable Data Protection Legislation. If Hypehound's compliance with Data Protection Legislation applicable to Restricted Data Transfers is affected by circumstances outside of Hypehound's control, including if a legal instrument for Restricted Data Transfers is invalidated, amended, or replaced, then Customer and Hypehound will work together in good faith to reasonably resolve such non-compliance.
7. Solely to the extent required to ensure the legality of Restricted Transfers, in the event that the transfer of Personal Information from Controller to Hypehound involves a transfer of Personal Information, that is subject to GDPR or UK GDPR, to a Restricted Country, the SCCs shall be incorporated by reference and form an integral part of this Addendum with Controller as "data exporter" and Hypehound

as “data importer.” For the purposes of the EU SCCs: (i) Module Two (controller to processor) terms shall apply and the module one, three and four terms shall be deleted; (ii) Clause 7 (Docking Clause) shall not apply; (iii) in Clause 9, Option 2 shall apply and the “time period” shall be 14 days; (iv) in Clause 11, the optional language shall not apply; (v) in Clause 17 (Option 1), the EU SCCs shall be governed by Irish law; (vi) in Clause 18(b), disputes shall be resolved before the courts of Ireland; (vii) Annex 1 and 3 of the EU SCCs shall be populated with the information set out in Appendix 1; and (viii) Annex 2 of the EU SCCs shall be deemed populated with the information set out in Appendix 2 . For the purposes of the UK IDTA: (i) the Appendices or Annexes of the UK IDTA shall be populated with the relevant information set out in this DPA; and (ii) the UK IDTA shall be governed by the laws of, and disputes shall be resolved before the courts of, England and Wales. If and to the extent the applicable SCCs conflict with any provision of this Addendum regarding the transfer of Personal Information from Customer to Hypehound, the SCCs shall prevail to the extent of such conflict.

## **Miscellaneous**

1. In the event of any conflict or inconsistency between the provisions of the Agreement and this Addendum, the provisions of this Addendum shall prevail. For avoidance of doubt and to the extent allowed by applicable law, any and all liability under this Addendum, including limitations thereof, will be governed by the relevant provisions of the Agreement.
2. The Customer acknowledges and agrees that Hypehound may amend this Addendum from time to time by posting the relevant amended and restated Addendum on Hypehound’s website, available at <https://hypehound.io/dpa> and such amendments to the Addendum are effective as of the date of posting. The Customer’s continued use of the Service after the amended Addendum is posted to Hypehound’s website constitutes the Customer’s agreement to, and acceptance of, the amended Addendum. If the Customer does not agree to any changes to the Addendum, the Customer should cease use of the Service immediately.
3. Save as specifically modified and amended in this Addendum, all of the terms, provisions and requirements contained in the Agreement shall remain in full force and effect and govern this Addendum. If any provision of the Addendum is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and the remainder of this Addendum shall remain operative and binding on the parties.
4. The terms of this Addendum shall be governed by and interpreted in accordance with the laws of the State of California and the laws of the United States applicable therein, without regard to principles of conflicts of laws. The parties

irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the State of California with respect to any dispute or claim arising out of or in connection with this Addendum.

## **Appendix 1 - Data Processing Details**

This Appendix includes certain details of the Processing of Personal Information: (i) as required by Article 28(3) of the GDPR; and (ii) where applicable, to populate Appendix 1 to the Standard Contractual Clauses.

### Hypehound's activities and purpose of the Processing

Hypehound provides a service for managing partial payments.

### Subject matter and duration of the Processing of Personal Information

The subject matter and duration of the Processing of Personal Information as part of the Service under the Agreement. Start date is the date Personal Information is first Processed by Processor. End date is the date of termination or expiry of the Agreement. The frequency of the processing is continual and ongoing during the term of the Agreement.

### The nature and purpose of the Processing of Personal Information

The processing of certain Personal Information by the Processor on behalf of the Controller in relation to allowing access of the Controller's users to the Processor's partial payment management platform.

### The categories of Personal Information to be Processed

Personal Information that Hypehound receives as described at:  
<https://www.hypehound.io/privacy-policy>

### The categories of Data Subjects to whom Personal Information relates

Data Subjects about whom Hypehound collects Personal Information in its provision of Service as a Processor, including Customer's customers ("Buyers"). Data Subjects about whom Personal Information is transferred to Hypehound in connection with its Service as a Processor by, at the direction of, or on behalf of Customer, including Buyers.

## **Appendix 2 – Security Measures**



As from the effective date of the Addendum, Hypehound will implement and maintain the security measures set out in this Appendix 2 (“**Security Measures**”).

1. **Physical Access Control:** Hypehound shall take reasonable measures to prevent physical access by unauthorized persons to facilities where Personal Information is Processed. Safeguards implemented at data processing facilities are controlled by third-party vendors and may include security personnel, alarm systems, access control systems, and video/CCTV surveillance.
2. **System Access Control:** Hypehound shall take reasonable measures to prevent unauthorized access to systems processing Personal Information. Safeguards implemented may include multi-factor authentication, change management processes, and system-level logging.
3. **Data Access Control:** Hypehound shall take reasonable measures to allow for Personal Information to be accessed and/or managed by authorized personnel only and protect against Personal Information being read, modified, or removed without authorization. Safeguards implemented include encryption while data is at rest.
4. **Transmission Control:** Hypehound shall take reasonable measures to prevent the disclosure of Personal Information during transmission. Safeguards implemented include encryption of data while in transit over public networks.
5. **Data Availability Control:** Hypehound shall take reasonable measures to protect against accidental destruction or loss of Personal Information. Safeguards implemented may include regular backups of Personal Information, restoration testing of Personal Information backups, replication of Personal Information backups across multiple sites, and disaster recovery plans.
6. **Data Segregation Control:** Hypehound shall take reasonable measures to segregate Personal Information on a per customer basis. Safeguards implemented may include application-level controls for logical separation of Personal Information.

Hypehound may update or modify such Security Measures from time to time, provided that such updates and modifications do not materially decrease the overall security of the Service.