

## Welcome to Downpay by Hypehound

### Hypehound Terms of Service

These Terms of Service ("**Terms of Service**") govern your access to and use of the Hypehound Inc's payment services app Downpay, on a paid or free trial basis. By placing an order, clicking to accept these Terms of Service, or using or accessing the Services (as defined below), you are agreeing to be bound by these terms. All terms used in these Terms of Service have the meanings set forth below and in Section 18 (Definitions):

- We'll refer to all the services we provide through the Hypehound application(s) available at the Downpay website (<https://www.getdownpay.com/>) or select third party platforms, individually and collectively as the "Services".
- We'll refer to these Terms of Use as the "Terms," and any form by which you agree to subscribe to the Services as the "Order Form". We'll refer to the Terms and Order Forms collectively as the "Agreement".
- We'll refer to Hypehound Inc. as "we," "us," or "Hypehound".
- We'll refer to you, an entity purchasing the Services for use by individuals you designate, or an individual authorized by the entity to access the Services on its behalf, as "you," "Customer" (with respect to an entity), or "Authorized User".
- In this Agreement, the words "include" and "including" will not be construed as terms of limitation.

The Agreement is a legally binding contract between you and Hypehound Inc. To access the Hypehound Services, you must be able to enter into a legally binding contract, and represent that you are at least 18 years old or, if a business, duly organized and legally in good standing.

Our collection and use of personal information in connection with Customers' and Authorized Users' access to and use of the Services is described in our [Privacy Policy](#).

## **2. SERVICES**

### **A. Your Right to Use the Services**

During the Subscription Term, we grant you a limited, non-exclusive, revocable, non-sublicensable, non-transferable license to use and access the Services described in the applicable Order Form, pursuant to terms of this Agreement and the relevant Order Form. Your use of the Services includes the right to access all functionality available in the purchased Services in accordance with the package(s) (and any applicable usage limitations) chosen on the Order Form, as of the effective date of such Order Form.

The Services, their permitted use and the associated entitlements are further described in the Documentation. We grant you Customer a non-exclusive, non-sublicensable, non-transferable, worldwide license to use the Documentation for your internal business purposes in connection with your subscription to the Services during the Subscription Term.

### **B. Your Services Account**

If you registering an Account as an administrator of the Services on behalf of a business, organization or other legal entity, (a) you represent and warrant that you have the authority to legally bind that entity and to grant us all permissions and licenses provided in this Agreement; (b) the words "you" and "your" used in this Agreement mean the entity registering the Account, in addition to you, an individual Authorized User; (c) you are responsible for administering Customer's access to the Services by adding and removing Authorized Users at the Company's

direction; and (d) you shall not allow access to or use of the Services by anyone other than Authorized Users.

Authorized Users agree to: (i) not share your Account or transfer any part of it to anyone else; (ii) provide accurate, current and complete information during the registration process and keep your Account up-to-date; and (iii) keep your password secure and confidential. We reserve the right to refuse registration of, or cancel passwords that we deem inappropriate. You agree to notify us immediately of any unauthorized use of your Account and are responsible for anything that happens through your Account prior to closing it or reporting misuse to us. Customer is responsible for Authorized Users' compliance with this Agreement, including for ensuring that Authorized Users maintain the confidentiality of their passwords and usernames.

You consent to using the email address you provide in your Account to send you Services-related notices, including any notices required by law, in lieu of communication by other means such as postal mail. We may also use your email address to send you other messages, such as changes to Services features, special offers, or Services-related newsletters. If you do not want to receive such email messages, you may unsubscribe as directed in the applicable communication. Opting out may prevent you from receiving email messages regarding updates, improvements, or offers.

### **C. Usage Limitations**

You may only use the Services on one Customer Property per subscription, unless otherwise specified in your Order Form.

### **D. Services Updates**

Your use of the Services includes the right to access all functionality available in the product to which you subscribed in the Order Form, on the effective date of such Order Form. We may enhance and modify the Hypehound Services and introduce new Services from time to time but will provide you with notice unless such changes are of minor nature with no material effect on our contractual obligations. Except with respect to Trials (as defined in Section 3(C) below), we will not make changes to the Services that materially reduce the functionality you purchased for the applicable Subscription Term. To the extent we make available any new or different features, functionality or enhancements to the Services, we will market these separately and may require the payment of additional fees. Documentation is available online and constantly being developed and improved, and as a result, during a Subscription Term we may update the Documentation to reflect best practice with the relevant Services, provided that these changes do not substantially diminish your rights or create substantial Customer obligations. You agree that we shall not be liable to you or any third party for any modification of the Services in keeping with this section.

#### **E. Third-Party Services and Platforms**

Certain elements of the Services may be provided through Third Party Services providers, including third party e-commerce platforms. Your use of any such Third Party Services is subject to the terms of service governing such websites and services. You understand and agree that the availability of the Services, or certain features and functions thereof, is dependent on the corresponding availability of Third Party Services or specific features and functions of Third Party Services through which we make certain elements of the Services available. We are not responsible for any interruptions or issues with the Services caused by Third Party Services, and make no representation or warranty regarding Third Party Services, whether or not we recommend, certify, or otherwise approve a Third Party Service for use with the Services. Your dealings with or participation with Third Party Services are solely between you and the applicable Third Party Service providers. You agree that we are not responsible for any loss or damage of any sort relating to

your dealings with Third Party Services, and that your Agreement and our [Privacy Policy](#) do not apply to your use of such Third Party Services. You agree to not take any action that would cause Hypehound or the Services or to become subject to any third-party terms (including open source license terms). If you receive any take down requests or infringement notices related to Customer Data or your use of Third Party Services, you must promptly: (a) stop using the related item with the Services; and (b) notify Hypehound. If Hypehound receives any take down requests or infringement notices related to Customer Data or your use of Third Party Services, we may respond in accordance with our policies, and will notify and consult with you on next steps.

### **3. FEES AND PAYMENT TERMS**

#### **A. Fees**

You agree to pay the fees applicable to your subscription and any other applicable fees, including but not limited to fees relating to the processing of transactions under your account (“Fees”). All initial and recurring Fees will be charged to the credit card that you authorize for your account. It is your responsibility to keep your authorized credit card valid and up to date at all times. We may terminate or block access to your account if your credit card becomes expired or otherwise invalid at the time any Fees become due.

All Fees are payable by credit card or other payment method permitted by us from time to time, and you authorize us to charge your credit card or bank account for all fees payable during the Subscription Term, at the start of the applicable billing period (i.e., monthly or annually). You further authorize us to use a third party to process payments, and consent to the disclosure of your payment information to such third party. Fees for the Subscription Term are non-refundable, including in the event of a suspension or termination.

## **B. Payment Terms**

We reserve the right to charge interest on late payments at the rate of 1.5% per month or 18% per annum, calculated on a monthly basis on the outstanding balance, from the date such payment was due until the date paid. If any payment is thirty (30) or more days overdue, we may, without limiting our other rights and remedies, suspend your access to the Services until such amounts are paid in full. All amounts payable under this Agreement will be made without setoff or counterclaim. Payments are non-refundable and non-creditable and payment obligations non-cancellable. You are responsible for all applicable sales, use, VAT, GST, excise, withholding, or similar taxes or levies, whether domestic or foreign, other than taxes ("Taxes") imposed on the transaction or the delivery of Services, except Taxes based on our net income. If you are paying by credit card, you authorize Hypehound to charge Fees or other amounts due automatically to your credit card without invoice.

## **C. Free Trial Services**

We will make Services to which you have subscribed on a free trial basis (a "Trial") available to you until the earlier of: (a) the end of the then-current Trial period offered by us, (b) the start date of any paid Services you order, or (c) the date on which we elect in our sole discretion to terminate your access to the Trial (the "Trial Term"). Your use of the Services during any Trial Term will be subject to the applicable terms of this Agreement and this Section. You acknowledge and agree that the features and functionality of the Services may be limited during the Trial Term and are provided by Hypehound on an as-is and as-available basis. We reserve the right to delete Customer Data following the Trial Term to the extent you do not purchase a paid subscription within seven (7) days following the end of the Trial Term. NOTWITHSTANDING ANYTHING TO THE CONTRARY THIS AGREEMENT. WE DO NOT PROVIDE ANY WARRANTY, SUPPORT OR INDEMNIFICATION OF ANY KIND WITH RESPECT TO THE SERVICES DURING THE TRIAL TERM, AND WE DISCLAIM ALL OBLIGATION OR LIABILITIES RELATED TO TRIAL SERVICES.

## 4. CUSTOMER DATA

### A. License to your Customer Data

By using the Services, you grant us, our Affiliates, and our Third Party Services providers a limited, non-exclusive, royalty-free, worldwide, sublicensable license to use, copy, store, transmit, modify, and create derivative works of the Customer Data solely to the extent necessary to (i) provide the Services to you, subject to the terms of this Agreement, including our confidentiality obligations, and as set out in Section 4(B) below (Hypehound Data); and (ii) enforce our rights under the Agreement. You are responsible for obtaining and providing relevant account information and passwords for any Third Party Services from which the Services collect your account information or data. We will use commercially reasonable administrative, physical, and technical safeguards to secure Customer Data from accidental loss and from unauthorized access, use, alteration or disclosure.

However, given the risks inherent with the internet, we are not responsible or liable for failure to store Customer Data or other materials you may transmit through the Services, except to the extent required by Applicable Law and as noted in our [Privacy Policy](#). We recommend that you take measures to preserve copies of Customer Data. Notwithstanding the foregoing, you agree that Hypehound may collect, analyze, use and disclose data derived from Customer Data in de-identified form, in which all Personal Information (defined below in Section 6), including direct and indirect identifiers, have been permanently removed or obscured so the remaining information may not reasonably identify or be linked to an individual (“De-Identified Data”), for any purpose permitted under Applicable Law, including, without limitation, (a) to compile statistical and performance information and analytics related to the provision and operation of the Services; (b) to enhance and improve the Services; and (c) to conduct internal research, development, and marketing.

## **B. Hypehound Data**

You agree that we will have the right to monitor use of the Services by all of our customers and use the data gathered in an aggregate and anonymous manner, which we may use for any business purpose during or after the term of this Agreement (including to develop and improve our products and services, to compile statistical and performance information related to the provision and operation of the Services or to support benchmarking or similar features of the Services). You agree that we may use and publish the Hypehound Data, provided that such information does not incorporate any Customer Data or identify you, Authorized Users or Visitors, and is stripped of all persistent identifiers (such as device identifiers, IP addresses, and cookie IDs). We retain all intellectual property rights in the Hypehound Data.

## **C. Your Responsibility for Customer Data**

By using the Services, including any products or services that facilitate the sharing of Customer Data to or from Third Party Services, you understand that you are solely responsible for Customer Data. As between Hypehound and you, you are solely responsible for the accuracy, quality, integrity, and reliability of all Customer Data, and you assume all risks associated with the Customer Data, including anyone's reliance on its quality, accuracy, or reliability. You represent and warrant that you or your Authorized Users own or have the necessary permissions to use, and authorize the use of, the Customer Data as described herein.

## **D. Our Right to Remove Customer Data**

We have the absolute right to remove or disable access to any Customer Data on the Hypehound Services as needed to (a) operate, secure and improve the Services (including without limitation for fraud prevention, risk assessment, investigation and customer support purposes); (b) ensure Authorized Users' compliance with the Agreement (or any Hypehound policy), Applicable Law, or an order or requirement



of a court, law enforcement or other administrative agency or governmental body; or (c) as otherwise set forth in this Agreement. If we become aware of any Customer Data that allegedly violates this Agreement, we may investigate the allegation and determine in our sole discretion whether to act, but have no liability or responsibility to you to do so. You agree to cooperate with us in good faith, as we may reasonably request, in any investigation we choose to undertake.

## **5. ACCEPTABLE USE OF THE SERVICES**

### **A. Prohibited Activities**

You shall not use, or encourage, promote, facilitate or instruct others to use the Services for any illegal, harmful or offensive use, including:

- accessing any content available through the Services through any technology or means other than those authorized by us on the Hypehound Services, such as by robot, spider, scraper or other automated means or manual process, for any purpose not authorized in the Agreement;
- interfering with or compromise the system integrity or security or decipher any transmissions to or from the servers running the Hypehound Services, or otherwise causing harm to the Hypehound Services, such as configuring the Services (or any component thereof) to avoid incurring fees;
- attempting to gain unauthorized access to Accounts; removing, circumventing, disabling, damaging or otherwise interfering with security or other preventive features of the Hypehound Services;
- using the Services to transmit any computer viruses, worms, defects, Trojan horses, malicious code, spyware, malware or other items of a destructive or harmful nature;
- taking any action that imposes, or may impose at our sole discretion, an unreasonable or disproportionately large load on our infrastructure;
- commercially exploiting the Services or making the Services available to any third party, other than to Authorized Users or as otherwise contemplated by

this Agreement, or accessing the Services for the purpose of building a similar or competitive product;

- copying, translating, creating a derivative work of, reverse engineering, reverse assembling, disassembling, or decompiling the Services or Hypehound Technology;
- distribute any portion of the Services;
- use the Services for purposes of product evaluation, benchmarking, or other comparative analysis intended for publication without our prior written consent;
- remove or obscure any proprietary or other notices contained in the Services output obtained from the Services;
- or partaking in any activity that, in our sole judgment, restricts or inhibits any other person from using or enjoying any aspect of the Services or exposes or may expose any users of the Services to harm or liability of any sort.

## **B. Prohibited Content**

Customer shall not transmit, store, display, distribute or otherwise make available any Customer Data or other Content through the Services that:

- is fraudulent, false, misleading (directly or by omission or failure to update information) or deceptive; is defamatory, libelous, harassing, abusive, obscene, sexually explicit, pornographic, vulgar or offensive;
- promotes discrimination, bigotry, racism, hatred, harassment or harm against, or is inappropriate towards any individual or group;
- is violent or threatening or promotes violence or actions that are threatening to any other person or animal;
- promotes illegal or harmful activities or substances;
- you do not have the permission from the content owner or individuals appearing in the content to post, free of charge;
- seeks to harm or exploit children by exposing them to inappropriate content, asking for personally identifiable details or otherwise;
- may constitute or contribute to a crime or tort; contains any information or content that is illegal (including, without limitation, the disclosure of insider information under securities law or of another party's trade secrets);

- creates a risk of any other loss or damage to any person or property;
- or violates any other Hypehound policy.

## **6. PRIVACY**

### **A. Personal Information**

“Personal Information” means any information relating to an identified individual, or to an individual who can be identified, directly or indirectly, by reference to such information, or as personal information or personal data is otherwise defined under applicable data privacy laws. Without limiting the foregoing, Personal Information does not include De-Identified Data (defined above).

### **B. Account Information**

We care about your privacy. You understand that by using the Services you consent to the collection, use and disclosure of your personal information and aggregate and/or anonymized data as set forth in our [Privacy Policy](#).

Insofar as the Customer Data or other content submitted by you includes Personal Information, we will only use such Personal Information to provide the Services if such use complies with applicable data protection laws in accordance with our [Privacy Policy](#).

### **C. No Personal Information in Visitor Data**

Customer acknowledges that Hypehound does not need to access Visitor Personal Information to perform the Services. Customer will not provide Hypehound with access to Visitor Personal Information unless the parties have agreed in a separate

agreement on the scope of work and any terms applicable to Hypehound's access to such Visitor Personal Information.

You agree to: (a) maintain a legally-adequate privacy policy on the Customer Properties and provide all required disclosures to Visitors with regards to using their information for the Services; and (b) obtain all necessary rights, releases, and consents to allow Customer Data to be collected, used, and disclosed in the manner contemplated by this Agreement and to grant Hypehound the rights set out in this Agreement (by way of a non-exhaustive example, you must ensure that a Visitor is not surprised by a credit card charge for the balance of a purchase). Each of us agrees (i) to comply with our own privacy policy and all Applicable Law with respect to Personal Information included in the Customer Data, including with respect to our communications to persons or entities identified in the Customer Data; (ii) to reasonably cooperate with the other, at each of our own expense, to ensure compliance, such as by providing each other information relating to our collection, use, and disclosure of personal information for or on behalf of the other party, and deleting consumer Personal Information within ten (10) days of receipt of a deletion request from the other party; and (iii) except as required for Account registration and payment, to not submit, or cause to be submitted, any Customer Data that includes a social security number, passport number, driver's license number, or similar identifier, credit card or debit card number, employment, financial or health information, personal information relating to a resident of the European Economic Area or personal information relating to an individual under sixteen (16) years of age, or any other information which may be subject to additional protections under applicable laws or regulations including, but not limited to, the Gramm-Leach-Bliley Act (GLBA) or the Health Insurance Portability and Accountability Act (HIPAA), the Children's Online Privacy Protection Act (COPPA), or which could give rise to notification obligations under data breach notification laws, without the other party's prior written approval.

#### **D. Hypehound Data**

We may monitor use of the Services by all of our customers and use the data gathered in an aggregate and anonymous manner, including to compile statistical and performance information related to the provision and operation of the Services or to support benchmarking or similar features of the Services. You agree that we may use and publish the Hypehound Data, provided that such information does not incorporate any Customer Data or identify you. We retain all intellectual property rights in the Hypehound Data.

## **7. CONFIDENTIALITY**

Hypehound and you agree to maintain the confidentiality of all Confidential Information disclosed to one another under this Agreement, and to only use the Confidential Information as specifically permitted by the terms and conditions of this Agreement. “Confidential Information” is information, in whatever form, not generally known or readily available to the public, and proprietary and confidential to the disclosing party, including, with respect to Hypehound, the Hypehound Data and all non-public features of the Hypehound Services and Services; with respect to Customer, Customer Data; and with respect to both parties, the terms and conditions of each Order Form. Confidential Information does not include any information that was previously known to the receiving party. Notwithstanding the foregoing, we reserve the right at all times to disclose any information as necessary to satisfy any Applicable Law, legal process or governmental request. You agree not to publicly disseminate information regarding the performance of the Services (which is deemed Hypehound’s Confidential Information).

## **8. OWNERSHIP**

### **A. What We Own**

This is an agreement for access to and use of the Services. You acknowledge that you are obtaining only a limited right to use the Services and that irrespective of any use of the words “purchase”, “sale” or similar terms, no ownership rights are

transferred to you under this Agreement. The Services are offered as an online, hosted product. As between you and Hypehound, you acknowledge and agree that we (or our licensors) own the Services (including the Hypehound Technology) and the copyrights, trademarks, service marks, trade names, trade secrets, and other intellectual and proprietary rights throughout the world associated with Hypehound, Hypehound, and the Services (with the exception of Customer Data), which are protected by copyright, trade dress, patent, trademark, and trade secret laws and all other applicable intellectual and proprietary rights and laws. Except as expressly provided in this Agreement, we do not grant you any express or implied rights in the Services.

## **B. What You Own**

As between Hypehound and you, Hypehound acknowledges and agrees that you own the Customer Data, Customer Properties, and all content contained within them (excluding any Hypehound Technology) and your copyrights, trademarks, service marks, trade names, trade secrets, and other intellectual and proprietary rights with respect to your products and services. You grant to Hypehound and our third party providers (including Third Party Services), under all of your applicable intellectual property rights, a worldwide, non-exclusive, royalty-free, non-transferable, sublicensable license to use, reproduce, distribute, modify, perform and display the Customer Data solely in conjunction with the provision of the Services under this Agreement. We agree not to disclose, disseminate, or make available Customer Data to third parties other than as needed to perform the Services or as otherwise provided in this Agreement. Additionally, you grant us the right and license to use your trade names, trademarks, service marks, trade dress, logos and other rights in indicia to identify you as a Hypehound customer.

## **C. Suggestions and Feedback**

We welcome and encourage suggestions for improvements and other feedback related to the Hypehound Services (“Feedback”). You may submit Feedback by

emailing us, through the “Contact” section of the Hypehound Services, to [support@hypehound.io](mailto:support@hypehound.io) or by other means of communication. Any Feedback you submit to us will be considered non-confidential and non-proprietary to you. By submitting Feedback to us, you grant us an irrevocable, non-exclusive, royalty-free, perpetual, worldwide, assignable, sublicensable, transferable license to use, modify, prepare derivative works of, publish, distribute and sublicense the Feedback, and you irrevocably waive, and cause to be waived, against us or our users any claims and assertions of any moral rights contained in such Feedback.

## **9. DISCLAIMERS**

THE SERVICES ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS. NEITHER HYPEHOUND NOR OUR SUPPLIERS MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NON INFRINGEMENT. HYPEHOUND MAKES NO REPRESENTATION, WARRANTY OR GUARANTEE THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, THAT CUSTOMER DATA WILL BE ACCURATE, COMPLETE, OR PRESERVED WITHOUT LOSS, OR THAT THE SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE. HYPEHOUND DOES NOT GUARANTEE THAT SECURITY MEASURES WILL BE ERROR-FREE AND WILL NOT BE RESPONSIBLE OR LIABLE FOR UNAUTHORIZED ACCESS BEYOND OUR REASONABLE CONTROL. HYPEHOUND WILL NOT BE RESPONSIBLE OR LIABLE IN ANY MANNER FOR ANY CUSTOMER PROPERTIES OR THIRD-PARTY SERVICES (INCLUDING FOR ANY DELAYS, INTERRUPTIONS, TRANSMISSION ERRORS, SECURITY FAILURES, AND OTHER PROBLEMS CAUSED BY THESE ITEMS OR TO THESE ITEMS BY THE SERVICES), FOR THE COLLECTION, USE AND DISCLOSURE OF CUSTOMER DATA AUTHORIZED BY THIS AGREEMENT, OR FOR DECISIONS OR ACTIONS TAKEN (OR NOT TAKEN) BY CUSTOMER BASED UPON THE SERVICES (INCLUDING CHANGES TO CUSTOMER PROPERTIES). THE DISCLAIMERS IN THIS SECTION WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING TO THE

CONTRARY IN THIS AGREEMENT. YOU MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, ANY STATUTORILY REQUIRED WARRANTIES UNDER APPLICABLE LAW, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD AND MAXIMUM EXTENT PERMITTED BY LAW.

## **10. INDEMNIFICATION**

### **A. By Hypehound**

Hypehound will defend and indemnify Customer, and its directors, officers and employees against any demands, losses, costs, liabilities or damages (including reasonable attorneys' fees) awarded by a court of competent jurisdiction or agreed to settlement by Hypehound arising from a third-party claim ("Claim") alleging that the Services, when used as authorized under this Agreement, infringed third-party intellectual property rights. Notwithstanding the foregoing, Hypehound shall have no obligation under this Section where (1) the Services are modified by anyone other than Hypehound or used in combination with any non-Hypehound product, software or service; (2) Services are used in an unauthorized manner; (3) a Claim arises as a result of circumstances covered by your indemnification obligations in Section 10.B (Indemnity by Customer); (4) any open source components are included in the Services where infringement is alleged or (5) Customer settles or makes any admissions with respect to a Claim without Hypehound's prior written consent.

This Section 10.A sets forth the entire liability of Hypehound and the exclusive remedy of Customer for patent, copyright or other proprietary or intellectual property right infringement or misappropriation.

### **B. By Customer**

To the maximum extent permitted by applicable law, you will indemnify, hold harmless and defend Hypehound and our Affiliates, at your expense, from any and



all third-party claims, actions, proceedings, and suits brought against Hypehound or any of our Affiliates, officers, directors, employees, or agents, and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including, reasonable attorneys' fees and other litigation expenses) incurred by Hypehound or any of its officers, directors, employees, agents or affiliates, arising out of or relating to: (a) any infringement claim based upon the Customer Data; our breach of any term or condition of this Agreement; (b) any use of the Services in combination with other products, equipment, software or data not supplied by Hypehound; (c) any other party's access and use of the Services with your unique username, password or other appropriate security code; or (d) any claims made by or on behalf of any third party pertaining directly or indirectly to your use of the Services, or your use, and disclosure of Customer Data in violation of any third-party rights (including intellectual property, privacy and publicity rights).

### **C. Procedure**

The indemnifying party's obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified party shall promptly notify the indemnifying party in writing of any threatened or actual claim or suit; (b) the indemnifying party shall have sole control of the defense or settlement of any claim or suit; and (c) the indemnified party shall cooperate with the indemnifying party to facilitate the settlement or defense of any claim or suit.

### **D. Parties' Acknowledgement**

Each party acknowledges that the other has agreed to the Fees and entered into this Agreement in reliance upon the limitations and the disclaimers of warranties set out in this Section 10, and that they form an essential basis of the bargain between the parties. This Section 10 will be given full effect if any remedy specified in this Agreement is deemed to have failed in its essential purpose.

## **11. LIMITATION OF LIABILITY**

HYPEHOUND'S (INCLUDING ITS AFFILIATES, OFFICERS, DIRECTORS AND EMPLOYEES) MAXIMUM AGGREGATE LIABILITY TO YOU FOR LOSSES OR DAMAGES THAT YOU SUFFER IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT IS LIMITED TO THE GREATER OF (A) THE AMOUNT PAID, IF ANY, BY YOU TO Hypehound IN CONNECTION WITH THE SUBSCRIPTION TERM IN WHICH THE ACTION GIVING RISE TO LIABILITY OCCURRED, OR (B) \$100. TO THE EXTENT PERMITTED UNDER LAW, HYPEHOUND SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR ANY LOSS OF DATA, OPPORTUNITIES, REPUTATION, PROFITS OR REVENUES, RELATED TO THE SERVICES. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN Hypehound AND YOU, AND THEY WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.

## **12. TERM AND TERMINATION**

### **A. Subscription Term and Renewal**

The Subscription Term will begin on the date of your completed registration for use of a Service and continue until terminated by us or by you, as provided below. By using the Services, you are agreeing to pay applicable Fees for the entire Subscription Term.

Each Subscription Term will automatically renew for additional successive twelve-month periods unless either party gives written notice of non-renewal or termination. Pricing for any Subscription Term renewal will be at Hypehound's then-applicable rates, or as otherwise specified in the applicable Order Form. This Agreement is effective until all Subscription Terms for the Services(s) have expired or are terminated as expressly permitted in this Agreement.

You may cancel your Account and terminate the Terms of Service at any time by contacting us at [support@hypehound.io](mailto:support@hypehound.io) and then following the specific instructions indicated to you in our response.

Without limiting any other remedies, we may suspend or terminate your Account or the Terms of Service for any reason, without notice and at any time (unless otherwise required by law), including if we suspect that you (by conviction, settlement, insurance or escrow investigation, or otherwise) have engaged in fraudulent activity in connection with the use of the Services. Termination of the Terms of Service will be without prejudice to any rights or obligations which arose prior to the date of termination. In the event that we permanently suspend your Account, during a Subscription Term, you are not entitled to a restoration of your Account or any of your Customer Data. If we have suspended your individual Authorized User Account, you may not register a new Account or access and use the Services through an Account of another user.

#### **B. Effect of Termination.**

Upon termination or expiration of this Agreement for any reason: (a) all rights and obligations of both parties, including all licenses granted hereunder, shall immediately terminate (except that all payment obligations accrued prior to termination or expiration shall survive) ; and (b) each party shall return or destroy all Confidential Information of the other party. Additionally, Hypehound shall have no obligation to retain any Customer Data after any termination or expiration of this Agreement and may delete all Customer Data, unless required by applicable law.

Except where this Agreement specifies an exclusive remedy, all remedies under this Agreement, including termination or suspension, are cumulative and not exclusive of any other rights or remedies that may be available to a party.

All sections of this Agreement which by their nature should survive termination will survive termination, including accrued rights to payment, confidentiality obligations, indemnification, warranty disclaimers, and limitations of liability.

### **13. CHOICE OF LAW AND VENUE**

This Agreement shall be governed by and construed in accordance with the laws of Canada and the Province of Ontario, without regard to conflicts of law principles.

### **14. COMPLIANCE WITH LAWS**

Hypehound and you recognize that this Agreement is subject to, and intended to comply with, Applicable Law, and agree that the Services addressed in this Agreement do not exceed those which are reasonably necessary to accomplish the commercially reasonable business purposes of this Agreement.

### **15. TRANSLATIONS AND UPDATES TO THE AGREEMENT**

We may translate this Agreement into other languages for your convenience. Nevertheless, the English version governs your relationship with us, and any inconsistencies among the different versions will be resolved in favor of the English version available at: <https://www.getdowpay.com/terms-of-service>.

We may also update the Agreement from time to time. If we materially update any portion of the Agreement, we will notify you, at the email address provided in your Account profile, or other reasonable means (for example, by posting a notice on our website) before the date the update becomes effective. We will also post the updated Agreement in its original location marked with the new date. Changes will not be retroactive nor affect your current Subscription Term. Your renewal of your Subscription Term after we publish or send a notice about our changes to these Terms means that you are consenting to the updated terms.

Hypehound may change the Fees for the Services from time-to-time. We will provide you with 30 days advance notice prior to any changes in Fees by sending an email to the primary email listed on your Account, providing notice through the Hypehound administrative console, or by similar means. Hypehound will not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Services (or any part thereof).

## 16. GENERAL TERMS

**Marketing.** Customer agrees that Hypehound may refer to Customer by name, logo and trademark in Hypehound's marketing materials and website, provided that Hypehound complies with Customer's published branding guidelines. Customer acknowledges and agrees that Hypehound does not certify or endorse, and has no obligation to certify or endorse, any of Customer's products, services, or content.

**Entire Agreement.** This Agreement (including each Order Form) contains the entire understanding between Hypehound and you relating to the subject matter herein and supersedes all prior oral or written agreements between us. We reject any additional or different terms proposed by you, those contained in your purchase order, acceptance or website.

**Assignment.** You may not assign or transfer your rights and benefits under this Agreement without our prior written consent, but we may assign or transfer this Agreement without restriction.

**Third Party Rights and Benefits.** Except as set forth in this Agreement, nothing in this Agreement shall be deemed to confer any rights or benefits on any third party.

**Waiver.** No waiver, amendment, modification or addition to this Agreement shall be valid unless in writing and signed by both you and us.

**Invalidity.** In the event any provision of this Agreement is determined to be invalid by a court of competent jurisdiction, such determination shall in no way affect the validity or enforceability of any other provision herein.

**Limitation Period.** To the extent allowed by Applicable Law, you agree that you will bring any claim or cause of action arising from or relating to your access or use of the Services within two (2) years from the date on which such claim or action arose or accrued or such claim or cause of action will be irrevocably waived.

**Independent Contractors.** Hypehound and Customer are independent contractors, and this Agreement does not create a partnership, joint venture, employment or agency relationship between the Hypehound and Customer or any Authorized User.

**Non-Exclusivity.** This is a non-exclusive arrangement.

## 17. CONTACT US

If you have any questions about these Terms, please contact us at [support@hypehound.io](mailto:support@hypehound.io).

## 18. DEFINITIONS

“Account” means an account you register with Hypehound in order to access or use the Hypehound Services.

“Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. For purposes of this definition, “control” means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“Agreement” means these Terms of Service, Order Forms, and any other documents or policies referenced or incorporated therein.

“Applicable Law” means all applicable local, state, federal, and international laws, rules, and regulations.

“Authorized User” means an employee, representative, consultant, contractor (such as media agencies or marketing consultants) or other agent of Company who is authorized to access and use the Services for Customer’s benefit through the individual’s unique registered Account.

“Customer” means a business, organization, or other legal entity identified in the applicable invoice, online subscription process, and/or Order Form responsible for purchasing and administering access to the Services on behalf of the entity.

“Customer Content” means text, images, videos or other content for the Customer Property that Customer selects for use with the Services.

“Customer Data” means any data, information and content provided by you or your Authorized Users to us, including through Third Party Services providers, to enable provision of the Services, including (i) Customer Content; (ii) Submitted Data; and (iii) Visitor Data.

“Customer Property or Properties” means any web page located at a single domain/URL and its subdomains under your control that sends data to the Hypehound Services.

“Documentation” means any user instructions and help files that we make available to you as part of the Services, as may be updated from time to time by us.

“Fee” means the amount you pay for the Services.

“Feedback” means suggestions for improvements and other feedback related to the Hypehound Services.

“Hypehound Data” means statistical and use data collected by us pertaining to use of the Services.

“Hypehound Technology” means any and all Documentation, Hypehound Data and other technology, code, know-how, logos and templates (including in any output obtained from the Services) underlying the Services, and anything delivered as part of support or other services, and any updates, modifications or derivative works of any of the foregoing, including as may incorporate any Feedback.

“Order Form” means any Hypehound online sign-up or subscription flow for the Services that references these Terms of Service. Unless specifically provided otherwise in the Order Form, Order Forms will be deemed to incorporate the terms of this Agreement.

“Services” mean the services, individually and collectively, that we provide in connection with your subscription to the Hypehound products, applications, support, and services available through Hypehound.

“Subscription Term” means the initial term for the subscription to the applicable Services and each subsequent renewal term (if any).

“Submitted Data” means data uploaded, inputted or otherwise submitted by Customer to the Services, including content, data or other materials that you provide to the Services from your third-party data providers or Third Party Services.



“Third Party Service(s)” means services delivered or performed by third parties related to the Services, or other online, web-based services, e-commerce platforms or other business application subscription services, that interoperate with or are used in connection with the Services, and any other products not developed by Hypehound.

“Visitor” means any end user of a Customer Property.

“Visitor Data” means the data and information concerning the transactions and activities of Visitors on the Customer Properties shared with us by or on behalf of Customer for the purposes of providing the Services.

“We,” “us,” “our”, and “Hypehound” refer to Hypehound Inc.

“You” or “your” refers to Customer or an Authorized User, as applicable.

## **QUESTIONS/HELP**

If you have any questions about this Agreement, please email us at [support@hypehound.io](mailto:support@hypehound.io)

**Last Updated Mar 13, 2025**