

# Terms of Service

Last Updated: April 29, 2016.

## About our terms of service

Welcome to NihaoPay. We have developed our payment services (the “NihaoPay Payments”) to make it easy for you to accept the most popular Chinese payment methods online, including the 5 billion UnionPay debit and credit cards in circulation, over 450 million Alipay accounts, and more than 250 million Wechat Pay accounts, so you can focus on your own product or service. We have drafted these Terms of Service to be readable, but should you have any questions or concerns or would simply like to better understand how we do things at NihaoPay, please do not hesitate to [contact us](#).

## The NihaoPay Services

We will provide you with the software and support services you need to process online payments from UnionPay, Alipay, and/or Wechat Pay (the “Networks”). We will respect and protect the privacy, data and personal information of both you and your customers. You run your business, service your customers, protect your customers’ data, report & pay taxes, and observe all laws, rules, and regulations. NihaoPay may offer other services to you that may be subject to additional or different terms.

## Registering for NihaoPay

Once you provide us with basic information about your company, we will seek to verify your information (we may work with third parties to do so) and approve your account unless deemed risky (by us or our payment providers). You give us permission to do all this, and to periodically update the information or we otherwise must decline to offer NihaoPay Services to you. There are some prohibited activities for which you may not use the NihaoPay Services.

## Receiving your Funds from Card Transactions

Funds from your transactions (minus our fees) are paid to you on a schedule communicated to you once your NihaoPay Account is approved. Payouts for transactions through the NihaoPay Payment system are typically deposited in your bank account within 7 days. A certain amount of your funds may be subject to an additional hold period (e.g. Reserve Account) with terms determined by your perceived risk and transaction history. You are responsible for refunds, returns, and liable for customer disputes (chargebacks).

## Termination and Other Legal Terms

We reserve the right to terminate this agreement at any time. You can also terminate anytime. Termination is effective immediately. Termination does not alter your liability for processed payments or related chargebacks.

## NihaoPay Terms of Service

The Terms and Conditions described here constitute a legal agreement (“Agreement”) between the sole proprietor or business organization listed as the “Merchant” on the service registration page (sometimes referred to as “you,” “your,” “user”), NihaoPay, Inc. (“NihaoPay”), and Silicon Valley Bank (“Silicon Valley Bank”, collectively with NihaoPay referred as “we”, “our” or “us”).

## **Section A: NihaoPay Services**

### **1. Our Role**

NihaoPay Payments helps you accept and process credit cards, debit cards and other payment types including Alipay and Wechat Pay (collectively “Payments”) from your customers who want to pay you for products or services or give donations. NihaoPay’s payment processing service supports China-issued UnionPay cards and most China issued co-branded cards with a Visa, MasterCard, or American Express logo (collectively “the Card Networks”) including credit, debit, pre-paid, or gift cards. Our Payment service also processes payments through Alipay and Wechat Pay. NihaoPay is not a bank or a money services business (“MSB”) and NihaoPay does not offer banking or MSB services as defined by the United States Department of Treasury. In addition, we do not assume any liability for the products or services purchased using NihaoPay Payments. You will be required to apply from NihaoPay to use NihaoPay Payments.

### **2. NihaoPay Payments**

We provide an API and other software to enable you to use NihaoPay Payments. We reserve the right to require you to install or update any and all software updates to continue using NihaoPay Payments. NihaoPay Payments also includes software to help you manage recurring and subscription billing charges for your products and services. It is your responsibility to obtain your customers’ consent to be billed on a recurring basis in compliance with applicable legal requirements and Network payment rules.

### **3. Authorization for Handling of Funds**

By accepting this agreement, you authorize us to hold, receive, and disburse funds on your behalf when such funds from your transactions settle from the Networks. You further authorize NihaoPay to instruct Silicon Valley Bank on how your transaction settlement funds should be disbursed to you (e.g. by ACH credit transaction or wire transaction) and the timing of such disbursements. Settlement funds will be held in a deposit account at Silicon Valley Bank pending disbursement of the funds to you in accordance with the terms of this contract. You agree that you are not entitled to any interest or other compensation associated with the settlement funds held by Silicon Valley Bank pending settlement to your designated bank settlement account, that you have no right to direct that deposit account, and that you may not assign any interest in the deposit account at Silicon Valley Bank. We may periodically make available to you information in the NihaoPay management dashboard regarding anticipated settlement amounts received on your behalf from the Networks and are being held pending settlement. This settlement information does not constitute a deposit or other obligation of NihaoPay or Silicon Valley Bank to you. This settlement information reflected in the NihaoPay management dashboard is for reporting and informational purposes only, and you are not entitled to, and have no ownership or other rights in settlement funds, until such funds are credited to your designated bank settlement account. Your authorizations set forth herein will remain in full force and effect until your NihaoPay Account is closed or terminated.

### **4. Payment Methods**

You may only process payments when authorized to do so by your customer. NihaoPay will only process transactions that have been authorized by the applicable Network or card issuer.

You are solely responsible for verifying identity of your customers, ensuring that they have authorized the transaction, and determining their eligibility to purchase your products and services. NihaoPay does not guarantee or assume any liability for transactions authorized and completed that are later reversed or charged back (see Chargebacks below). You are solely responsible for all reversed or charged back transactions, regardless of the reason for, or timing of, the reversal or chargeback. NihaoPay may add or remove one or more payment types or networks at any time. If we do so we will use reasonable efforts to give you prior notice of the removal.

## **5. Customer Service**

We will provide you with customer service to resolve issues relating to your NihaoPay Account, use of the NihaoPay Services, and the distribution of funds to your designated bank settlement account. You, and you alone, are responsible for providing service to your customers for any and all issues related to your products and services, including but not limited to issues arising from the processing of customers' cards through NihaoPay Payments.

## **6. Taxes**

It is your responsibility to determine what, if any, taxes apply to the sale of your products and services and/or the payments you receive in connection with your use of NihaoPay Services ("Taxes"). It is solely your responsibility to assess, collect, report, or remit the correct tax to the proper tax authority. We are not obligated to, nor will we determine whether Taxes apply, or calculate, collect, report, or remit any Taxes to any tax authority arising from any transaction. You acknowledge that we may make certain reports to tax authorities regarding transactions that we process and merchants to which we provide card payment services.

Pursuant to the Internal Revenue Code, merchant acquiring entities and third-party settlement organizations are required to file an information return with the IRS for each calendar year, reporting all payment card transactions and third-party network transactions with merchants occurring in that calendar year. You acknowledge that we will report to the Internal Revenue Service the total amount of the payments you receive each calendar year as required by law.

## **7. Your Data Security Obligations**

You are fully responsible for the security of data on your site, through your app, or otherwise in your possession. You agree to comply with all applicable state and federal laws and rules in connection with your collection, security and dissemination of any personal, financial, Card, or transaction information (defined as "Payment Data") on your site or through your app. While NihaoPay helps to make compliance easier, you are solely responsible for compliance with any laws, regulations, or rules applicable to your business. You specifically agree that at all times you will be compliant with the Payment Card Industry Data Security Standards (PCI-DSS) and the Payment Application Data Security Standards (PA-DSS), as applicable. The steps you will need to take to comply with PCI-DSS and PA-DSS when using NihaoPay Services will vary based on your implementation. For more information about implementing NihaoPay Services, please refer to our documentation. If we believe it is necessary based on your implementation and request it of you, you will promptly provide us with documentation evidencing your compliance with PCI DSS and/or PA DSS if requested by us. You also agree that you will use only PCI compliant service providers in connection with the storage, or transmission of Payment Data defined as a cardholder's account number, expiration date, and CVV2. You must not store CVV2 data at any time. Information on the PCI DSS can be found on the [PCI Council's website](#). It is your responsibility to comply with these standards.

## **8. Security and Fraud Controls**

NihaoPay is responsible for protecting the security of Payment Data in our possession and will maintain commercially reasonable administrative, technical, and physical procedures to protect all the personal information regarding you and your customers that is stored in our servers from unauthorized access and accidental loss or modification. However, we cannot guarantee that unauthorized third parties will never be able to defeat those measures or use such personal information for improper purposes. You acknowledge that you provide this personal information regarding you and your customers at your own risk.

NihaoPay may provide or suggest security procedures and controls intended to reduce the risk to you of fraud (“Security Controls”). These Security Controls may include processes or applications that are developed by NihaoPay or by third parties, including but not limited to providing two-factor authentication for logging into your NihaoPay Account. You agree to review all Security Controls and choose those that are appropriate for your business to protect against unauthorized transactions and, if necessary, use other procedures and controls not provided by us. Disabling or failing to properly use Security Controls increases your exposure to unauthorized transactions. Keep in mind that you are responsible for the use of lost or stolen data that is used to purchase products or services from your business. We are not liable for and do not insure against losses to you or your customers resulting from use of lost or stolen data with NihaoPay Payments (including but not limited to losses arising from the use of lost or stolen credit cards to make purchases from your site or app, or those caused by a compromise of your login credentials).

## **9. Audit Right**

If we believe that a security breach or compromise of data has occurred, we may require you to have a third-party auditor that is approved by us conduct a security audit of your systems and facilities and issue a report to be provided to us, our banking partners, and the Card Networks.

## **10. Your Privacy**

Privacy and the protection of personal information are very important to us. You acknowledge that you have received, read in full, and agree with the terms of our privacy policy, linked to and incorporated into this Agreement by reference, which contains your consent to our collection, use, retention, and disclosure of personal information as well as other matters. The policy also explains how and for what purposes we collect, use, retain, disclose, and safeguard the personal information provided to us. You acknowledge that we are required to provide your business name and limited information to financial services providers as part of NihaoPay Payments. In the event of a default under this Agreement or a misuse of applicable financial networks, we may also report your business name and the name of your principals to the China UnionPay, Alipay and WechatPay. You specifically consent to the fulfillment of the obligations related to the listing by us or our payment processor and to the listing itself and you waive and hold harmless us or our payment processor from all claims and liabilities you may have as a result of such reporting.

## **11. Privacy of Others**

You represent to NihaoPay that you are and will continue to be in compliance with all applicable privacy laws. You further represent that you have obtained all necessary rights and consents under applicable law to disclose to NihaoPay – or allow NihaoPay to collect, use, retain, and disclose – any data that you provide to us or authorize us to collect, including information that we may collect directly from your end users via cookies or other means. As between you and NihaoPay, you are solely responsible for disclosing to your customers, as applicable, that you are utilizing NihaoPay Services and providing customer data to NihaoPay.

If you receive information about others, including cardholders, through the use of the NihaoPay Services, you must keep such information confidential and may only use it in connection with the NihaoPay Services. You may not disclose or distribute any such information to a third party or use any such information for marketing purposes unless you receive the express consent of the user to do so. You may not disclose card information to any third party, other than in connection with processing a card transaction requested by your customer using NihaoPay Payments and in a manner consistent with PCI DSS and applicable law.

## **12. Restricted Use**

You are required to obey all laws, rules, and regulations applicable to your use of the NihaoPay Services (for example, those governing financial services, consumer protections, unfair competition, anti-discrimination, or false advertising). In addition to any other requirements or restrictions set forth in this Agreement, you will not use NihaoPay Payments to: (i) utilize the credit available on any Card to provide cash advances to cardholders; (ii) submit any transaction for processing that does not arise from your sale of products or services to a buyer customer, or acceptance of a bona fide charitable donation; (iii) act as a payment intermediary or aggregator or otherwise resell our services on behalf of any third party; (iv) send what you believe to be potentially fraudulent authorizations or fraudulent transaction; or (v) use NihaoPay in a manner that UnionPay, AliPay, Wechat Pay, or any other Card Network or payment network might reasonably believe to be an abuse of such network or a violation of its applicable rules.

You further agree not to, nor to permit any third party to, do any of the following with the NihaoPay Services: (i) access or attempt to access NihaoPay systems, programs, or data that are not made available for public use; (ii) copy, reproduce, republish, upload, post, transmit, resell, or distribute in any way material from NihaoPay, NihaoPay's website, or NihaoPay Services; (iii) permit any third party to use NihaoPay Services via a rental, lease, timesharing, service bureau, or other arrangement; (iv) transfer any rights granted to you under this Agreement; (v) work around any of the technical limitations, use any tool to enable features or functionalities that are otherwise disabled – or decompile, disassemble, or otherwise reverse engineer – except to the extent that such restriction is expressly prohibited by law; (vi) perform or attempt to perform any actions that would interfere with the normal operation, or prevent access to or use by our other users, or impose an unreasonable or disproportionately large load on our infrastructure; or (vii) use in a manner that is not expressly permitted in this Agreement.

## **13. Suspicion of Unauthorized or Illegal Use**

We reserve the right to not authorize or settle any transaction you submit which we believe is in violation of this Agreement, any other NihaoPay agreement, or exposes you, other NihaoPay users, financial services providers, or NihaoPay to harm or unnecessary risk, including but not limited to fraud and other criminal acts. You grant us authorization to share information with law enforcement about you, your transactions, or your NihaoPay Account if we reasonably suspect that your use of NihaoPay has been for an unauthorized, illegal, or criminal purpose.

## **14. Card Network Rules**

The Card Networks have established guidelines, bylaws, rules, and regulations (“Network Rules”). You are required to comply with all applicable Network Rules that are applicable to merchants. You can review portions of the Network Rules at UnionPay, AliPay, and WechatPay. The Networks reserve the right to amend the Network Rules. NihaoPay reserves the right to amend the Agreement at any time with notice to you as necessary to comply with Network Rules or otherwise address changes to the NihaoPay Services.

## **15. Disclosures and Notices**

You agree that NihaoPay can provide disclosures and notices regarding the NihaoPay Services to you by posting such disclosures and notices through the NihaoPay transaction management system/dashboard, emailing them to the email address listed in your NihaoPay Account, mailing them to the address listed in your NihaoPay Account, or posting them to our website. You also agree that electronic disclosures and notices have the same meaning and effect as if we had provided you with a paper copy. Such disclosures and notices will be considered to be received by you within 24 hours of the time it is posted to our website or emailed to you unless we receive notice that the email was not delivered.

## **16. References to Our Relationship**

You agree that, from the time you begin processing payment with NihaoPay until you terminate your account with us, we may identify you as a customer of NihaoPay. Neither you nor we will imply any untrue sponsorship, endorsement or affiliation between you and NihaoPay.

## **17. Additional Services**

From time to time we may offer you additional features or services (“Additional Services”), which may be subject to additional or different terms of service. As with the NihaoPay Services, you may not use these Additional Services unless you agree to the applicable terms of service. Except where expressly stated otherwise, your use of Additional Services will have no impact on the applicability of this Agreement to the Service.

# **Section B: Registering your NihaoPay Account**

## **1. Application**

The NihaoPay Services are only made available under this Agreement to persons that operate a business selling products or services, or to accept donations for a bona fide charitable organization. NihaoPay Payments may not be used to accept payments for personal, family, or household purposes. To use the NihaoPay Services, you will first have to apply. When you apply, we will collect basic information including your name, company name, location, email address, tax identification number, and phone number. You may not apply for another account with NihaoPay if we have already rejected an application for your business. If you believe your original application was rejected in error, please contact our [Support team](#) to review your account.

You may choose to apply as an individual (sole proprietor) or as a business organization. If you apply as a business organization, you must also provide information about an owner or principal of the business and you must be authorized to act on behalf of the business, and must have the authority to bind the business to this Agreement. Keep in mind that you are accepting the terms and conditions of this Agreement on behalf of the business. If you are a sole proprietor, the term “you” will mean you, the natural person, as well as the business organization that you represent.

## **2. Company Descriptions and URL**

As part of your registration, you must provide the URL for your business and the name under which you do business, which may be the business’s legal name or a DBA. These two fields may appear in your customers’ credit or debit card statements. To avoid customer confusion and transaction disputes, you must enter a description that clearly identifies your business as well as an accurate URL.

### **3. Verification and Underwriting**

To verify your identity, we will require additional information including your business EIN or Tax ID, social security number, and date of birth. We may also ask for additional information to help verify your identity and assess your business risk including business invoices, a driver's license or other government issued identification, or a business license. We may ask you for financial statements. We may request for your permission to do a physical inspection at your place of business and to examine books and records that pertain to your compliance with this Agreement. Your failure to comply with any of these requests within five (5) days may result in suspension or termination of your NihaoPay Account.

NihaoPay may use your information to apply for merchant acquiring accounts on your behalf with certain Networks, and you hereby authorize us to do so. If we or Networks request that you do so, you will also be required to enter into a direct agreement with UnionPay, Alipay or WechatPay in addition to this Agreement. In that case, unless you expressly inform us in writing otherwise, you hereby authorize NihaoPay to continue to manage your account on your behalf and to cause funds settled from UnionPay transactions to be deposited to an omnibus bank account designated by NihaoPay for your benefit.

After we have collected and verified all your information, NihaoPay will review your account and determine if you are eligible to use the NihaoPay Services. NihaoPay may also share your information with our payment processors (such as Silicon Valley Bank), each of which may also make a determination regarding your eligibility. We will notify you once your account has been either approved or deemed ineligible for use of the NihaoPay Services.

By accepting the terms of this Agreement, you authorize us to retrieve information about you by using third parties, including credit bureaus and other information providers. You acknowledge that such information retrieved may include your name, address history, credit history, and other data about you. NihaoPay may periodically update this information to determine whether you continue to meet our eligibility requirements.

You agree that NihaoPay is permitted to contact and share information about you and your application (including whether you are approved or declined), and your use of NihaoPay with the financial services providers we work with, including Silicon Valley Bank. This includes sharing information (a) about your transactions for regulatory or compliance purposes, (b) for use in connection with the management and maintenance of the program, (c) to create and update their customer records about you and to assist them in better serving you, and (d) to conduct NihaoPay's risk management process.

### **4. Prohibited Businesses**

There are certain categories of businesses and business practices for which the NihaoPay Services cannot be used ("Prohibited Businesses"). Many of these Prohibited Business categories are imposed by Card Network rules or the requirements of our banking providers or processors. We maintain a list here: Prohibited Businesses. By registering a NihaoPay Account, you confirm that you will not use the NihaoPay Services in connection with any of the Prohibited Businesses. If you are uncertain as to whether a business is a Prohibited Business, or have questions about how these requirements apply to your business, please contact us.

## **Section C: Processing Card Transactions, Receiving Your Funds, and Fees**

### **1. Processing Transactions**

As used in this Agreement, a “Chargeback” is a request that your customer files directly with an issuing bank to reverse or invalidate a processed payment, and a “Refund” means a reversal of a charge, in whole or in part, that you initiate. “Claim” means a challenge to a payment that you or a paying customer files directly with NihaoPay. “Reversal” means NihaoPay reverses the settlement of funds from a processed transaction that you received because (a) the transaction is invalidated by the Network for any reason, (b) the settlement funds were sent to you in error for any reason, (c) the sender of the payment did not have authorization to send the payment (for example, the purchaser used a card that did not belong to him or her), (d) you received the payment for activities that violated this Agreement or any other agreement you have with NihaoPay, or (e) we decided a Claim against you.

You agree that you will honor all eligible cards presented for payment by your customers for your products and services in accordance with the Network Rules, this Agreement and any operating guides that we may provide you from time to time. You agree that you will obtain an authorization for each card transaction, as required under the Network Rules, and will not submit a card transaction for settlement where you know there is a negative authorization or the card is otherwise expired or invalid. You acknowledge that the existence of an affirmative authorization from us or the Card Networks does not mean that a particular card transaction won’t result in a Chargeback, Reversal or Claim at some later date.

While you may charge fees for your products or services, you may not impose any fee or surcharge for payment processing on a customer that seeks to use an eligible payment method or misrepresent fees charged for payment processing. You will provide a receipt to the customer at the conclusion of the purchase transaction that includes all information required under Card Network rules and applicable law.

You will submit all transactions for processing no later than 3 days from the date of authorization. You will maintain appropriate records of all payment transactions for a period of at least 2 years from the date of the transaction.

You will display all Network marks in accordance with the rules and procedures of the Networks, and will use such marks only to indicate that you accept their methods of payment.

We may offer you the ability to have funds settled to your bank account in a currency different from the one in which you accepted payment from a customer (“Multi-Currency Processing”). To use this service, you must provide us with a valid bank account for each currency for which you request settlement, based on our list of available settlement currencies. We may add or remove currencies from our list of available settlement currencies at any time. If you use Multi-Currency Processing, we will identify at the time of charge (through an API response) the conversion rate that will apply to the charge. If you Refund a charge, the conversion rate that will apply will be the rate in effect at the time of the Refund, not the charge. By submitting a charge or refund for processing you will be deemed to have accepted the rate. You may choose not to use the Multi-Currency Processing service at any time. You may change the bank account information or other settings associated with your use of Multi-Currency Processing, but any such changes will only affect subsequent charges.

## **2. Payouts and Transaction History**

We will pay out funds settling from the Networks to your designated bank or settlement account (“Bank Account”) you provide when applying for your NihaoPay Account. Funds will be settled in the Bank Account in the amounts actually received (less our Fees, as defined below) for transactions processed by NihaoPay Payments. Your Bank Account must be held in the name of your business. You are responsible for the accuracy and correctness of information regarding your Bank Account, including inputting the correct information as part of applying or updating your Bank Account. Funds for transactions may be transferred to your Bank Account prior to funds being settled from the Networks. Any such funds paid to you prior to having been settled are considered preliminarily credited but may be Reversed if the



transaction does not ultimately clear the Network. The actual timing of the transfers to your Bank Account of the settling funds will be subject to the Payout Schedule (as defined below).

After transfer of funds is initiated to your Bank Account, we will update information in your NihaoPay Account to reflect the settlement. Information regarding your transactions that are processed and settled using NihaoPay Payments (“Transaction History”) will be available to you when you login to your NihaoPay Account. While we will provide a “Transaction History” in your NihaoPay Account, you are solely responsible for compiling and retaining permanent records of all transactions and other data associated with your NihaoPay Account as may be required for your business. NihaoPay is not responsible for maintaining Transaction History or other records in a manner consistent with your record retention obligations and may change the duration of the Transaction History at any time, but will always maintain the previous 18 months’ transactions.

### **3. Payout Schedule**

“Payout Schedule” refers to the time it takes for us to initiate a transfer to your designated Bank Account of settlement funds arising from transactions processed through NihaoPay Payments. Once your Bank Account information has been reviewed, NihaoPay will initiate transfer of settlement funds (net of Fees, Chargebacks, and other funds owed to us for any reason) in accordance with the Payout Schedule, the terms of which will be made available to you when you login to your NihaoPay transaction management system. The settlement funds should normally be credited to your Bank Account within 1-2 days of us initiating the payout. The initial transfer to your account may be delayed pending review of your account. We are not responsible for any action taken by the financial institution holding your Bank Account that may result in some or all of the funds not being credited to your Bank Account or not being made available to you. You can contact us at any time to inquire about changing the timing of your Payout Schedule, and will be informed of the process and requirements for NihaoPay to review your Payout Schedule.

We reserve the right to change the Payout Schedule, suspend payouts to your Bank Account, or initiate a Reversal should we determine it is necessary due to pending disputes, excessive or anticipated excessive Chargebacks or Refunds, or other suspicious activity associated with your use of NihaoPay Payments, or if required by law or court order.

### **4. Reconciliations and Errors**

Transaction History will be available to you when you login to the NihaoPay Transaction Management System. You are responsible for reconciling your Transaction History with your actual transactions, and agree to notify us of any errors or discrepancies in your Transaction History (each an “Error”) arising from such reconciliation and verification. We will investigate reported Errors and attempt to rectify any Errors that you or we discover. In the event you are owed money as a result of an Error, we will transfer funds to your Bank Account in the next scheduled payout. While we may still work with you to reconcile Errors, your failure to notify us such Errors within 30 days of when it first appears on your Transaction History will be deemed a waiver of any right to amounts that may be owed to you in connection with any such Error, including any related charges.

If you submit or cause us to process transactions erroneously, you will contact us immediately. We will investigate any reported erroneous transactions and attempt to rectify them by crediting or debiting your Bank Account as appropriate. Your failure to notify us of a processing error within 30 days of when it first appears on your Transaction History will be deemed a waiver of any right to amounts owed to you.

### **5. Refunds and Returns**

You agree to submit all Refunds for returns of your products and services that used NihaoPay Payments to receive payment to your customers in accordance with this Agreement and Network Rules. Network Rules require that you will (i) maintain a fair return, cancellation or adjustment policy; (ii) disclose your return or cancellation policy to customers at the time of purchase; (iii) not give cash Refunds to a customer in connection with a sale, unless required by law; and (iv) not accept cash or any other item of value for a Refund.

Full Refunds must be for the exact dollar amount of the original transaction including tax, handling charges, and other. The Refund amount may not exceed the original sale amount except by an amount equal to any reimbursements to customer for postage costs incurred for product returns. You will use best efforts to process all Refunds within 30 days after the original transaction date, and you acknowledge that Refunds processed after that time may not be capable of being processed.

NihaoPay will deduct the Refund amount (including any applicable Fees) from (i) settlement funds owed to you from processing of other transactions, or (ii) funds in any Reserve Account. Where these funds are not sufficient, you authorize NihaoPay to initiate a debit entry to your Bank Account in the amount necessary to complete the refund transaction to the customer's account. In the event NihaoPay cannot debit your Bank Account, you agree to pay all funds owed to NihaoPay immediately upon demand. You are solely responsible for accepting and processing returns of your products and services. We have no responsibility or obligation for processing such returns, or for responding to your customers' inquiries about such returns.

## **6. Chargebacks**

A Chargeback is typically caused when a customer disputes a charge that appears on their bill. A Chargeback may result in the reversal of a transaction where you are immediately liable for the amount of the transaction. You can be assessed Chargebacks for (i) customer disputes; (ii) unauthorized or improperly authorized transactions; (iii) transactions that do not comply with Network Rules or the terms of this Agreement or are allegedly unlawful or suspicious; or (iv) any reversals for any reason by the Card Network, our processor, or the acquiring or issuing banks.

When a Chargeback is issued, you are immediately liable to NihaoPay for the full amount of the transaction related to the Chargeback plus any associated Fees, fines, expenses or penalties (including those assessed by the Card Networks or our payment processors). You agree that NihaoPay may recover these amounts by debiting your Bank Account, debiting the Reserve Account, or setting off any amounts owed to you by us. If we are unable to recover funds related to a Chargeback for which you are liable, you will pay us the full amount of the Chargeback immediately upon demand. Where such amounts are not immediately paid to us, you agree to pay all costs and expenses, including without limitation attorneys' fees and other legal expenses, incurred by or on behalf of us in connection with the collection of any unpaid Chargebacks unpaid by you.

If we reasonably believe that a Chargeback is likely with respect to any transaction, we may withhold the amount of the potential Chargeback from payments otherwise due to you under this Agreement until such time that: (a) a Chargeback is assessed due to a customer's complaint, in which case we will retain the funds; (b) the period of time under applicable law or regulation by which the customer may dispute that the transaction has expired; or (c) we determine that a Chargeback on the transaction will not occur.

## **7. Contesting your Chargebacks**

You or NihaoPay may elect to contest Chargebacks assessed against you. NihaoPay may provide you with assistance including notifications and support to help contest your Chargebacks, but we do not assume any liability for our role or assistance in contesting Chargebacks.

You agree to provide us with the necessary information, in a timely manner and at your expense, to investigate or help resolve any Chargeback. You also grant us permission to share records or other information required with financial institutions and Card Networks to help resolve any disputes. You acknowledge that your failure to provide us with complete and accurate information in a timely manner may result in an irreversible Chargeback being assessed.

If the Chargeback is not resolved in your favor, we may recover the Chargeback amount and any associated fees from you. We reserve the right, upon notice to you, to charge a fee for mediating or investigating Chargeback disputes.

## **8. Excessive Chargebacks**

At any point, NihaoPay, Silicon Valley Bank, the Networks, or our payment processors may determine that you are incurring excessive Chargebacks. Networks typically consider Chargeback volume approaching 1% of your total processing volume to be excessive, although the level at which you are considered to have excessive Chargebacks may be more or less than that. Excessive Chargebacks may result in additional fees, penalties, or fines. Excessive Chargebacks may also result in (a) additional controls and restrictions put on your use of NihaoPay Payments, including without limitation, (i) changes to the terms of your Reserve Account, (ii) increases to your applicable Fees, or (iii) delays in your Payout Schedule; or (b) possible suspension or termination of your NihaoPay Account and access to the NihaoPay Services. The Card Networks may also place additional controls or restrictions as part of their own monitoring programs for merchants with excessive Chargebacks.

## **9. NihaoPay Fees**

You agree to pay all fees assessed by us to you for providing the NihaoPay Services described in this Agreement (“Fees”). Except as otherwise stated in writing by NihaoPay, these fees will be calculated pursuant to the Fee Schedule incorporated into this Agreement by reference. We reserve the right to revise our Fees with 30 days’ notice to you.

You acknowledge that you are also responsible for any penalties or fines imposed on NihaoPay or you by any Card Network or financial institution as a result of your use of the NihaoPay Services.

## **10. Our Collection Rights**

To the extent permitted by law, we may collect any obligations you owe us under this Agreement by deducting the corresponding amounts from the Reserve Account or from funds payable to you arising from the settlement of transactions, including funds from another one or your NihaoPay Accounts. Fees will be assessed at the time a transaction is processed and will be first deducted from the funds received for such transactions. If the settlement amounts or Reserve Account are not sufficient to meet your obligations to us, we may debit the Bank Account registered in your NihaoPay Accounts for any amounts owed to us. Your failure to fully pay amounts that you owe us on demand is a material breach of this Agreement and you will be liable for our costs associated with collection in addition to the amount owed, including without limitation attorneys’ fees and expenses, costs of any arbitration or court proceeding, collection agency fees, and any applicable interest.

In some cases, we may require a personal guarantee from a principal from your business as a condition of our continuing to provide NihaoPay Services to you. If a personal guarantee is necessary, we will specifically inform you in advance.

## **11. Reserves**

In certain circumstances, we may determine that a Reserve Account is necessary to provide the NihaoPay Services to you. Where needed, NihaoPay may, in its sole discretion, set the terms of your Reserve Account and notify you of such terms, which may require that a certain amount (including the full amount) of the funds received for your transaction is held for a period of time or that additional amounts are held in a Reserve Account. NihaoPay, in its sole discretion, may elect to change the terms of the Reserve Account at any time for any reason based on your payment processing history or as requested by our payment processors.

NihaoPay may fund the Reserve Account through (i) funds owed to you for transactions submitted through the NihaoPay Service, (ii) debiting your Bank Account, (iii) through other sources associated with your NihaoPay Account, or (iv) requesting that you provide funds to NihaoPay for deposit.

## **12. Security Interest**

You grant us a lien and security interest in the Reserve Account, all transactions (including future transactions), any rights to receive credits or payments under this Agreement, and all deposits and other property of yours possessed or maintained by us on your behalf. You will execute, deliver, and pay the fees for any documents we request to create, perfect, maintain and enforce this security interest, even if such request is made after you have established a negative balance with NihaoPay.

# **Section D: License, Termination, and Other General Legal Terms**

## **1. Your License to Use the NihaoPay Services; Our Trademarks**

NihaoPay grants you a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to electronically access and use the NihaoPay Services solely to (a) accept and receive payments, (b) manage the funds you so receive, and (c) build applications utilizing the NihaoPay Services in a manner consistent with this Agreement and the documentation available to you on our website. This license includes use of the APIs, documentation, images, support pages, and any updates thereto provided to you by NihaoPay. Where updates are subject to new or additional terms, we will update this Agreement or provide notice to you. We may terminate this license at any time if you use the NihaoPay Services or content, except as permitted by this Agreement.

We may also periodically make available certain NihaoPay logos, trademarks, or other identifiers for your use (“NihaoPay Marks”). NihaoPay may limit or revoke your ability to use NihaoPay Marks at any point. We may change NihaoPay Marks from time to time. In the event that NihaoPay Marks is changed, you will use the current version of the NihaoPay Marks.

## **2. Ownership**

NihaoPay provides you a limited license to use the NihaoPay Services as described in and subject to this Agreement. Each of the foregoing is licensed and not sold, and we reserve all rights not expressly granted to you in this Agreement. The NihaoPay Services are protected by copyright, trade secret and other

intellectual property laws. We own all interest, title, and other worldwide IP Rights (as defined below) in the NihaoPay Services and all copies of the NihaoPay Services.

For the purposes of this Agreement, “IP Rights” means all patent rights; copyright, including rights in derivative works; moral rights; rights of publicity; trademark, trade dress, and service mark rights; goodwill; trade secret rights; and other intellectual property rights as may now exist or hereafter come into existence, including all applications and registrations, renewals, and extensions thereof, under the laws of any state, country, territory, or other jurisdiction.

You may choose to or we may invite you to submit comments or ideas about the NihaoPay Services, including without limitation about how to improve the NihaoPay Services or our products (“Ideas”). By submitting any Idea, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place NihaoPay under any fiduciary or other obligation, and that we are free to use the Idea without any additional compensation to you, and/or to disclose the Idea on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, NihaoPay does not waive any rights to use similar or related ideas previously known to NihaoPay, or developed by its employees, or obtained from sources other than you.

### **3. Term**

The Agreement is effective upon the date you agree to it (by electronically indicating acceptance) and continues so long as you use the NihaoPay Services or until terminated by you, NihaoPay, or Silicon Valley Bank.

### **4. Termination**

You may terminate this Agreement by closing your NihaoPay Account at any time by following the instructions on our website in your NihaoPay Account profile. We may terminate this Agreement and close your NihaoPay Account at any time for any reason effective upon providing you notice in accordance with Section A.15 above. We may suspend your NihaoPay Account and your access to the NihaoPay Services and any funds in your NihaoPay Account, or terminate this Agreement, if (i) we determine in our sole discretion that you are ineligible for the NihaoPay Services because of the risk associated with your NihaoPay Account, including without limitation significant credit or fraud risk, or for any other reason; (ii) you do not comply with any of the provisions of this Agreement; or (iii) requested by a Network or issuing financial institution.

### **5. Effects of Termination**

Upon termination and closing of your NihaoPay Account, we will immediately discontinue your access to the NihaoPay Services. You agree to complete all pending transactions, stop accepting new transactions through the NihaoPay Services and, where using NihaoPay Payments, immediately remove all NihaoPay and Network logos from your site or in your app (unless otherwise permitted to do so under a separate license from the Networks). Any funds in our custody will be paid out to you subject to the terms of this Agreement and your Payout Schedule.

Termination does not relieve you of your obligations as defined in this Agreement and NihaoPay may elect to continue to hold any funds deemed necessary pending resolution of any other terms or obligations defined in this Agreement, including but not limited to Chargebacks, Fees, Refunds, or other investigations or proceedings.

Upon termination you agree (i) immediately cease your use of the NihaoPay Services, (ii) discontinue use of any NihaoPay Marks or IP Rights licensed under this Agreement, and (iii) immediately remove any NihaoPay references and logos from your site or in your app. In addition, upon termination you understand and agree that (iv) the license granted under this Agreement will end, (v) we reserve the right (but have no obligation) to delete all of your information and account data stored on our servers, (vi) we will not be liable to you for compensation, reimbursement, or damages in connection with your use of the NihaoPay Services, or any termination or suspension of the NihaoPay Services or deletion of your information or account data, and (vii) you are still liable to us for any Chargebacks, Fees, Refunds, or other amounts incurred by you or through your use of NihaoPay Services prior to termination.

Where you use NihaoPay Payments, at any time within thirty (30) days after terminating your NihaoPay Account you may request in writing that we transfer Payment Data associated with your Transaction History that you are entitled to receive to an alternative PCI-DSS Level 1 certified payment processor that you identify to us. We will use commercially reasonable efforts to transfer permitted Payment Data within ten (10) business days from receipt of your written request.

## **6. Your Liability**

You are responsible for all Reversals, Chargebacks, Claims, fines, fees, penalties and other liability arising out of or relating to your use of the NihaoPay Services and your breach of this Agreement. You are responsible for the use of lost or stolen cards to purchase products or services from your business, and selected and implementing Security Controls that are appropriate for your business. You agree to reimburse your customer, NihaoPay, Silicon Valley Bank, and any third party designated by NihaoPay or Silicon Valley Bank for any and all such liability.

NihaoPay will have the final decision-making authority with respect to Claims. You will be required to reimburse NihaoPay for any liability we incur due to fulfillment or failure to fulfill obligations to your customers, including delivery of products or services. Your liability will include the full purchase price of the item plus the original shipping cost (and in some cases you may not receive the item back). You will not receive a refund of any Fees paid to NihaoPay.

Without limiting the foregoing, you agree to defend, indemnify, and hold harmless NihaoPay, Silicon Valley Bank, and their respective employees, directors, agents, and affiliates (collectively “Disclaiming Entities”) from and against any claim, suit, demand, loss, liability, damage, action, or proceeding arising out of or relating to (i) your breach of any provision of this Agreement; (ii) your use of the NihaoPay Services with your site or app; (iii) your obligations to pay amounts owed under this Agreement, including without limitation any Reversals, Chargebacks, Claims, fines, fees, penalties and attorneys’ fees; (iv) negligence or willful misconduct of your employees, contractors, or agents; and (v) all third-party indemnity obligations we incur as a direct or indirect result of your acts or omissions (including indemnification of any Card Network or card issuer). NihaoPay may immediately remove such amounts from your Reserve Account and deduct the amounts owed for such liability to NihaoPay from such Reserve Account funds.

## **7. Representation and Warranties**

You represent and warrant to us that: (a) if you are a sole proprietor, you are at least 18 years of age or, if you are under 18 years of age, you’ve obtained and can evidence consent from your parent or legal guardian to your execution of this Agreement and use of the NihaoPay Services in the manner prescribed by NihaoPay; (b) you are eligible to apply and use the NihaoPay Services and have the right, power, and ability to enter into and perform under this Agreement; (c) the information you submit as part of your registration is current, accurate, and complete; (d) any transaction submitted by you will represent a bona fide transaction for permitted products or services, or a charitable donation; (e) any transactions submitted

by you will accurately describe the products or services sold and delivered to a purchaser, or a donation received for the purpose accurately described on your site or in your app; (f) you will not engage in any unfair, deceptive, or abusive acts or practices when utilizing the NihaoPay Services; (g) you will fulfill all of your obligations to each customer for which you submit a transaction and will resolve any consumer dispute or complaint directly with the purchaser; (h) you and all transactions initiated by you will comply with all federal, state, and local laws, rules, and regulations applicable to your business, including any applicable tax laws and regulations; (i) except in the ordinary course of business, no transaction submitted by you through the NihaoPay Services will represent a sale to any principal, partner, proprietor, or owner of your entity; and (j) you will not use the NihaoPay Services, directly or indirectly, for any fraudulent or illegal undertaking, or in any manner so as to interfere with the normal operation of the NihaoPay Services.

## **8. No Warranties**

THE NIHAOPAY SERVICES AND ALL ACCOMPANYING DOCUMENTATION ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT ANY WARRANTIES, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM OR THROUGH THE NIHAOPAY SERVICES OR FROM (I) NIHAOPAY OR SILICON VALLEY BANK; (II) THE PROCESSORS, SUPPLIERS OR LICENSORS OF NIHAOPAY OR SILICON VALLEY BANK; OR (III) ANY OF THE DISCLAIMING ENTITIES WILL CREATE ANY WARRANTY FROM ANY DISCLAIMING ENTITY TO YOU. YOU SPECIFICALLY ACKNOWLEDGE THAT NEITHER NIHAOPAY NOR SILICON VALLEY BANK HAVE ANY CONTROL OVER THE PRODUCTS OR SERVICES THAT ARE PAID FOR, WHETHER PROVIDED THROUGH YOUR SITE OR APP OR OTHERWISE, WITH THE NIHAOPAY SERVICES, AND NEITHER NIHAOPAY NOR SILICON VALLEY BANK CAN ENSURE THAT YOUR CUSTOMERS WILL COMPLETE A TRANSACTION OR IS AUTHORIZED TO DO SO.

WITHOUT LIMITING THE FOREGOING, THE DISCLAIMING ENTITIES DO NOT WARRANT THAT THE INFORMATION THEY PROVIDE OR THAT IS PROVIDED THROUGH THE NIHAOPAY SERVICES IS ACCURATE, RELIABLE, OR CORRECT; THAT THE NIHAOPAY SERVICES WILL MEET YOUR REQUIREMENTS; THAT THE NIHAOPAY SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; THAT THE NIHAOPAY SERVICES WILL FUNCTION IN AN UNINTERRUPTED MANNER OR BE SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE NIHAOPAY SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY SUBJECT MATTER DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE NIHAOPAY SERVICES IS DOWNLOADED AT YOUR OWN RISK – YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD. THE DISCLAIMING ENTITIES MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT HOW LONG WILL BE NEEDED TO COMPLETE THE PROCESSING OF A TRANSACTION.

THE DISCLAIMING ENTITIES DO NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE NIHAOPAY SERVICES OR ANY HYPERLINKED WEBSITE OR SERVICE, OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND NEITHER NIHAOPAY NOR SILICON VALLEY BANK WILL BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

## **9. Limitation of Liability and Damages**

IN NO EVENT SHALL A DISCLAIMING ENTITY BE LIABLE FOR ANY LOST PROFITS, LOSS OF DATA, OR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING OUT OF, IN CONNECTION WITH, OR RELATING TO THIS AGREEMENT OR THE SERVICES, INCLUDING WITHOUT LIMITATION THE USE OF, INABILITY TO USE, OR UNAVAILABILITY OF THE NIHAOPAY SERVICES. UNDER NO CIRCUMSTANCES WILL ANY OF THE DISCLAIMING ENTITIES BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICE OR YOUR NIHAOPAY ACCOUNT OR THE INFORMATION CONTAINED THEREIN, OR YOUR FAILURE TO USE OR IMPLEMENT SECURITY CONTROLS THAT ARE APPROPRIATE FOR YOUR BUSINESS.

THE DISCLAIMING ENTITIES ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY (A) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF THE NIHAOPAY SERVICES; (B) ANY UNAUTHORIZED ACCESS TO OR USE OF SERVERS USED IN CONNECTION WITH THE NIHAOPAY SERVICES AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (C) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE NIHAOPAY SERVICES; (D) ANY SOFTWARE BUGS, VIRUSES, TROJAN HORSES, OR OTHER HARMFUL CODE THAT MAY BE TRANSMITTED TO OR THROUGH THE NIHAOPAY SERVICES; (E) ANY ERRORS, INACCURACIES OR OMISSIONS IN ANY CONTENT OR INFORMATION, FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT OR INFORMATION, IN EACH CASE POSTED, EMAILED, STORED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE NIHAOPAY SERVICES; AND/OR (F) USER CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY.

WITHOUT LIMITING ANYTHING TO THE CONTRARY, THE DISCLAIMING ENTITIES' CUMULATIVE LIABILITY TO YOU SHALL BE LIMITED TO DIRECT DAMAGES AND IN ALL EVENTS SHALL NOT EXCEED IN THE AGGREGATE THE AMOUNT OF FEES PAID BY YOU TO NIHAOPAY DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR LIABILITY.

THIS LIMITATION OF LIABILITY SECTION APPLIES REGARDLESS OF THE LEGAL THEORY ON WHICH THE CLAIM IS BASED, INCLUDING WITHOUT LIMITATION CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER BASIS. THE LIMITATIONS APPLY EVEN IF NIHAOPAY OR SILICON VALLEY BANK HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

THE FOREGOING WILL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

The NihaoPay Services are controlled and operated from facilities in the United States and Japan. Except where expressly stated otherwise, NihaoPay makes no representations that the NihaoPay Services are appropriate or available for use in other locations. Those who access or use the NihaoPay Services from other jurisdictions do so at their own volition and are entirely responsible for compliance with all applicable United States, foreign and local laws and regulations, including but not limited to export and import regulations.

## **10. Disputes; Choice of Law; Jurisdiction and Venue**



You agree that any disputes arising out of or relating to this Agreement or the NihaoPay Services will be resolved in accordance with this Section 10.

This Agreement is governed by the laws of the State of California without regard to its choice of law provisions. The exclusive venue for any actions or claims arising under or related to this Agreement will be the state or federal courts located in San Francisco County, California. ALL PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.

Headings are included in this Agreement for convenience only, and will not be considered in interpreting this Agreement. The Agreement does not limit any rights that we may have under trade secret, copyright, patent, or other laws. Our delay or failure to assert any right or provision under this Agreement will not constitute a waiver of such right or provision. No waiver of any term of this Agreement will be deemed a further or continuing waiver of such term or any other term.

## **11. Right to Amend**

We have the right to change or add to the terms of this Agreement at any time, and to change, delete, discontinue, or impose conditions on any feature or aspect of the NihaoPay Services or software with notice that we in our sole discretion deem to be reasonable in the circumstances, such as on our website. Any use of the NihaoPay Services or software after our publication of any such changes will constitute your acceptance of this Agreement as modified.

## **12. Assignment**

This Agreement and any rights or licenses granted hereunder may not be transferred or assigned by you without our prior written consent, but may be assigned by us without consent or other restriction upon notice to you or where substantially all of NihaoPay's assets are sold. Any attempt by you to assign this Agreement, or any rights or licenses granted herein, without NihaoPay's express written consent will be null and void.

## **13. Change of Business**

You agree to give us at least 30 days prior notification of your intent to change your current product or services types, your trade name, or the manner or types of payments you accept. You agree to provide us with prompt notification if you are the subject of any voluntary or involuntary bankruptcy or insolvency petition or proceeding. You also agree to promptly notify us of any adverse change in your financial condition, any planned or anticipated liquidation or substantial change in the basic nature of your business, any transfer or sale of 25% or more of your total assets or any change in the control or ownership of you or your parent entity. You will also notify us of any judgment, writ or warrant of attachment or execution, or levy against 25% or more of your total assets not later than 3 days after you obtain knowledge of it.

## **14. Parties**

This Agreement binds you and your respective representatives, and permitted and approved successors (including those by merger and acquisition) or any permitted assigns.

## **15. Third-Party Services and Links to Other Websites**

You may be offered services, products, and promotions provided by or be presented links to websites operated by third parties (“Third-Party Services”) that utilize, integrate, or provide services related to the Service. If you decide to use these Third-Party Services, you will be responsible for reviewing and understanding the terms and conditions associated with these Third-Party Services. You agree that we are not responsible for the performance of Third-Party Services.

## **16. Force Majeure**

No party will be liable for delays in processing or other nonperformance caused by such events as fires, telecommunications failures, utility failures, power failures, equipment failures, labor strife, riots, war, terrorist attack, nonperformance of our vendors or suppliers, acts of God, or other causes over which the respective party has no reasonable control, except that nothing in this section will affect or excuse your liabilities and obligations under Section D(10), including without limitation for Reversals, Chargebacks, Claims, fines, fees, refunds or unfulfilled products and services.

## **17. Responding to Legal Process**

NihaoPay may respond to and comply with any writ of attachment, lien, levy, subpoena, warrant, or other legal order (“Legal Process”) that we believe to be valid. We may deliver or hold any funds or, subject to the terms of our Privacy Policy, any information as required under such Legal Process, even if you are receiving funds on behalf of third parties. Where permitted, we will use reasonable efforts to provide you notice of such Legal Process by sending a copy to the email address we have on file for you. NihaoPay is not responsible for any losses, whether direct or indirect, that you may incur as a result of our complying with any Legal Process.

## **18. Entire Agreement**

This Agreement constitutes the entire agreement between you, NihaoPay, and Silicon Valley Bank with respect to the provision of the NihaoPay Services. In the event of a conflict between this Agreement and any other NihaoPay agreement or policy relating to the subject matter herein, this Agreement will prevail. These terms and conditions describe the entire liability of NihaoPay, Silicon Valley Bank, and our vendors and suppliers (including processors), set forth your exclusive remedies with respect to the NihaoPay Services, and define your access and use of the NihaoPay Services. If any provision of this Agreement (or portion thereof) is held to be invalid or unenforceable under applicable law, then it will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect.

## **19. Survival**

In addition to any provision that is reasonably necessary to accomplish or enforce the purpose of this Agreement, the following sections of this Agreement will survive and remain in effect in accordance with their terms upon the termination of this Agreement: Sections A(3) (“Authorization for Handling of Funds”), A(6) (“Taxes”), A(7) (“Your Data Security Obligations”), A(8) (“Security and Fraud Controls”), A(11) (“Privacy of Others”), C(4) (“Reconciliations and Errors”), C(5) (“Refunds and Returns”), C(6) (“Chargebacks”), C(8) (“Excessive Chargebacks”), C(9) (“NihaoPay Fees”), C(10) (“Our Collection Rights”), C(12) (“Security Interest”), D(2) (“Ownership”), D(5) (“Effects of Termination”), D(6) (“Your Liability”), D(8) (“No Warranties”), D(9) (“Limitation of Liability and Damages”), D(10) (“Disputes; Choice of Law; Jurisdiction and Venue”), D(14) (“Parties”), D(17) (“Responding to Legal Process”), D(18) (“Entire Agreement”), D(19) (“Survival”), and D(19) (“Card Network Disclosure”).