

# Crescendo

## *GiftLaw Terms and Services*

The purpose of the GiftLaw "Terms and Services" is to explain the procedure to implement the GiftLaw service for your organization and to set forth the terms of use related to such service. The parties to this agreement are Crescendo Interactive, Inc. ("Crescendo"), a California corporation with its principal office at 110 Camino Ruiz, Camarillo, California 93012, and the GiftLaw Subscriber ("Subscriber") which is the organization that has contracted with Crescendo to use the GiftLaw service. Crescendo and Subscriber agree to the following terms and provisions for the licensing and use of the GiftLaw service with the functionality described below.

**1. DESCRIPTION.** Crescendo's GiftLaw website and services are eMarketing tools for building eRelationships with CPAs, attorneys and other professional advisors who work with charitable donors. GiftLaw emails include links for these professional advisors to Subscriber's GiftLaw website. These links contain weekly publishing and website content related to tax news; Crescendo's GiftLaw Charitable Deductions Calculator for remainder unitrusts, remainder annuity trusts and lead trusts; and the GiftLaw Pro charitable tax reference service. GiftLaw also includes 52 color eNewsletters for distribution by Subscriber to Subscriber's network of professional advisors.

**2. SERVICE LEVELS.** There are three different GiftLaw service levels ("service levels") consisting of the "Complete" service level, the "Intermediate" service level and the "Basic" service level, which contain each of the following features identified and described below:

**A. "Complete" Features**

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1. GiftLaw Website
  2. GiftLaw eNewsletters
  3. GiftLaw Calculator
  4. GiftLaw Pro

**B. "Intermediate" Features**

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1. GiftLaw Website
  2. GiftLaw eNewsletters
  3. GiftLaw Calculator

**C. "Basic" Features**

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1. GiftLaw Website
  2. GiftLaw eNewsletters

1. GiftLaw Website. The GiftLaw service includes a GiftLaw website that is designed and integrated to function seamlessly with Subscriber's primary website and may include links from the GiftLaw website to the primary website. The GiftLaw service also includes new content that is updated weekly and which features "rotating content" to feature different stories each time someone visits the GiftLaw website. These features allow Subscriber to market planned gifts to Subscriber's network of professional advisors with modest effort and little maintenance.

2. GiftLaw eNewsletters. The GiftLaw service includes weekly eNewsletters with content that is prepared by Crescendo and customized for Subscriber. The eNewsletters are designed to be sent to Subscriber's network of professional advisors (including CPAs, attorneys and other professional advisors) and features: Washington Hotline, a column about the latest tax news from Washington, D.C.; Case of the Week, a case study on various gift options and other topics of interest; Crescendo's Article of the Month, featuring an in-depth discussion about various planned giving topics; and updates related to Revenue Rulings, Private Letter Rulings, tax law updates and other timely articles related to planned giving. GiftLaw's eNewsletters will allow Subscriber to dramatically increase contact with gift planning professionals, educate them on planned giving advantages, strengthens existing relationships by providing pertinent decision making information and build new relationships with easy access, non-aggressive marketing, up-to-date tax and law information and much more. eNewsletter content is posted online on Subscriber's GiftLaw website and the eNewsletters contain direct links to the GiftLaw website to help increase Subscriber's web-traffic.

3. GiftLaw Calculator. The GiftLaw Calculator is an online calculator that allows website visitors to obtain tailored deduction calculations for ten different gift options including: CRUT for One Life, Two Lives or Term of Years; CRAT for One Life, Two-Lives or Term of Years; Lead Unitrust or Lead Annuity Trust for up to 35 Years; and Gift Annuities for One or Two Lives. The calculator is customized to include Subscriber's logo and colors, integrated into the GiftLaw website and allows Subscriber to set default options for trusts and other parameters.

4. GiftLaw Pro. The GiftLaw service includes access to Crescendo's GiftLaw Pro Charitable Tax Reference Service. GiftLaw Pro contains: more than 100 chapters of explanations and examples of various topics related to charitable and planned giving tax law; links to sections of the Internal Revenue Code and Regulations related to charitable giving; links, summaries and the full text of more than 8,000 Revenue Rulings, Revenue Procedures, Private Letter Rulings, and Tax Court Cases; more than 100 different "Q&As" related to charitable giving.

**3. SET-UP PROCEDURE.** Subscriber can easily set up a GiftLaw website by completing the following steps: (1) execute a

Letter of Agreement for GiftLaw Service and fax the completed form back to Crescendo or send it by regular mail; (2) complete and email the GiftLaw Information Form to Crescendo; and (3) submit pictures and other required items necessary for website completion. Once the above steps are completed, Crescendo will customize Subscriber's GiftLaw website using the colors, look and feel of its specified website and include links to other sections of the specified website. Working with Subscriber, Crescendo will then activate the GiftLaw website and Subscriber may begin advertising GiftLaw in print and email publications.

**4. MAINTENANCE.** The GiftLaw website is maintained by Crescendo software engineers on a Unix-type operating system on multiple server computers in a major data center. A mirror system of servers is maintained in a secure data center in another state. This system provides a secure and reliable website platform. Both Crescendo and the data center maintain backups of the software. The data center has multiple servers, multiple web connections and backup power. While Crescendo maintains most of the content of Subscriber's GiftLaw website, Subscriber will have the ability, using the password-protected GiftLaw web manager (located at CresManager.com), to modify many parts of the GiftLaw website. Crescendo disclaims any responsibility for modifications made by Subscriber to its GiftLaw website and Subscriber shall remain responsible for maintaining and updating the account password. Since account access will give Subscriber's staff access to make modifications to the GiftLaw website, Subscriber should adopt a policy limiting which Subscriber staff members have access to the CresManager login credentials. While Crescendo regularly tests the main GiftLaw website, Subscriber is responsible for testing the website, particularly any links unique to that website and any sections modified by Subscriber using the CresManager. Crescendo recommends that Subscriber assign one staff member on a rotating basis to review the organization's GiftLaw website and click on all of the links on a not-less-than once-per-month basis. This will ensure that Subscriber's GiftLaw website is always correctly linked to the organization's main website.

**5. DURATION OF AGREEMENT.** The length of service shall commence as of the date Subscriber executes the GiftLaw Letter of Agreement. It shall remain in full force and effect for a period of one (1) year (the "Initial Term"), unless and until this Agreement is otherwise terminated as provided herein. Following the expiration of the Initial Term, this Agreement shall continue in effect for successive one (1) year periods (a "Renewal Term") unless and until this Agreement is otherwise terminated as provided herein. At the commencement of any Renewal Term, Crescendo will invoice Subscriber for the amount necessary to renew this Agreement. The amount stated on the invoice shall be equal to the then-current service rates offered by Crescendo based on Subscriber's then-current service level. Either party may cancel this Agreement at any time during the Initial Term or any Renewal Term by providing a 30-day advanced written notice of their intent to cancel to the other party. Crescendo will notify Subscriber electronically at least sixty (60) days prior to the expiration of the current term that such term is about to expire, giving Subscriber adequate opportunity to cancel the Agreement during the current term. If for any reason Subscriber shall desire to cancel the Agreement after a renewal date has passed and payment has been made for the subsequent Renewal Term, Subscriber shall be permitted to use the GiftLaw website for the balance of the agreement period or terminate the service and have the website taken offline, but there shall be no refund of prorated payments for that period. Any notice permitted by this paragraph can be sent by email, facsimile or by U.S. Mail. Notices sent to Crescendo by email must be sent to GiftLaw@cresmail.com. If sent by U.S. mail, any notice must be sent by certified mail with return receipt requested and mail to Crescendo Interactive, Inc., 110 Camino Ruiz, Camarillo, CA 93012. Notices sent pursuant to this paragraph shall be deemed effective upon the expiration of five (5) calendar days from the date of mailing. The pricing for services provided under this Agreement may only be modified at the annual renewal of this Agreement regardless of other modifications to the Agreement during any term. Crescendo reserves the right to update the terms of this Agreement electronically as technology and features are updated on the GiftLaw website. Subscriber will have the option to review updated agreements electronically. Crescendo encourages Subscriber to recognize that the most successful GiftLaw program has occurred after use of the GiftLaw service for at least three years. Although Subscriber may see immediate results from the GiftLaw website, such as increased donor inquiries and closed planned gifts, new marketing programs typically develop progressively.

**6. DATA REPORTS AND CONFIDENTIAL INFORMATION.** Crescendo will collect data for statistical reports used for educational purposes to benefit Subscriber, such as the number of website visitors, pages visited and monthly totals. This statistical data and analytics will be available to Subscriber through Subscriber's password protected CresManager account. If a donor or prospective donor of Subscriber chooses to contact Subscriber through the GiftLaw website, that donor lead will be shared with Subscriber in the CresManager and/or sent to a contact email supplied by Subscriber. If Crescendo does have access to any confidential information about Subscriber (which, for purposes of this section, is hereafter referred to as "confidential information"), then Crescendo agrees that it will: (1) make all reasonable efforts to protect Subscriber's confidential information at least to the extent that Crescendo protects its own data; and (2) Crescendo will not disclose such confidential information to any other party without Subscriber's written permission or as may otherwise be required by law.

**7. PRIVACY.**

**A. Subscriber Data.** Crescendo agrees that all third party personal information obtained through Subscriber's GiftLaw website, uploaded or inputted by Subscriber or otherwise collected or retained as part of Subscriber's use of the service, including, but not limited to, names, addresses, contact information and other donor demographic information, is and shall remain Subscriber's sole and exclusive property.

**B. Data Security.** In its ongoing efforts to protect the privacy and protect the data of any person who has CresManager user account, who has an OWP account or any other account related to any other Crescendo services, Crescendo has adopted a Privacy Protection and Data Security Plan ("Plan"). The Plan was adopted, in part, based on the provisions of California SB46 of 2013 (codified as Sections 1798.29 and 1798.82 of the California Civil Code). The Plan includes details of how Crescendo would respond in the event of a data breach or suspected data breach of any accounts hosted on Crescendo's servers, such as notifying Subscriber in the event of such breach. Due to the very sensitive nature of the Plan, Crescendo is not able to make a copy of the Plan available to Subscriber. If Subscriber wants more information about how Crescendo will respond in the event of a data breach, Subscriber should review the text of SB 46. Crescendo reserves the right to amend or change this plan at any time without notice to Subscriber or any other party.

**C. Privacy Statement.** In order to comply with applicable law, Crescendo has prepared a written Privacy Statement that must be included on the GiftLaw website. This Privacy Statement discloses: (1) the kind of information that the website collects; (2) how such information may be used by Subscriber and Crescendo; and (3) other information such as interaction with "Do Not Track" features, how a site visitor may obtain information about the website and privacy as well as how the Privacy Statement will be amended. The Privacy Statement is written: (1) in compliance with California state law; and (2) based on the specific design, functionality and data collection practices of the GiftLaw technology (such as how the CresManager, website, calculators and online forms function). Due to the fact the Privacy Statement is technology-dependent, Subscriber may only propose edits to the Privacy Statement that are consistent with the GiftLaw technology and Subscriber agrees that Crescendo will not be required to make changes related to the Privacy Statement if, in Crescendo's sole discretion, such edits would conflict with the Privacy Statement or applicable law or would otherwise be false, misleading or give rise to confusion on the part of a website visitor (by way of example, a Privacy Statement edit that suggests the website's data collection is compliant with the laws of any state other than California would be confusing). Subscriber further agrees to assume full and total responsibility for any edits made by or links added by Crescendo to the Privacy Statement when made at Subscriber's request. The location and text size of the Privacy Statement shall be "conspicuous" so as to comply with applicable legal standards concerning placement and prominence for website privacy statements.

**D. Email Opt-Out (CAN-SPAM) Compliance.** Crescendo and Subscriber agree that they will each comply with California and federal law related to email privacy and opt-out requirements. Subscriber further agrees that it will fully comply with the federal CAN-SPAM Act of 2003, including as relates to personal information of any email recipient, prohibitions against misleading marketing, and opt-outs from Subscriber's email distribution lists housed on Crescendo's servers. In order to help facilitate compliance with the CAN-SPAM Act, Crescendo has integrated a series of tools within the CresManager, including: (1) a blacklist feature that aggregates opt-outs from Subscriber's GiftLegacy emails, Subscriber can use the blacklist to clean up any distribution lists maintained by Subscriber in any other email system utilized by Subscriber; (2) the ability to take an updated list maintained by other email systems, where the other system has removed opt-outs, and import that into the CresManager which, together with the CresManager blacklist, would ensure Subscriber's GiftLegacy emails do not contain or send email to an addressee who has opted-out from receiving Subscriber's emails; and (3) Crescendo can, upon request from Subscriber, add text along the lines of the following to the opt-out page of Subscriber's GiftLegacy website to facilitate user choices concerning opt-outs: *"The communication opt-out on this page only unsubscribes you from [Insert Name of Subscriber]'s planned giving emails. To exercise your right to opt-out of other emails sent by [Subscriber's Name], please click here to further manage your subscriptions: [link to Subscriber's other email opt-out page]."*

**E. Gramm-Leach-Bliley Compliance.** Crescendo has reviewed the provisions of Gramm-Leach-Bliley ("GLB") and concluded that Crescendo is not required under GLB to send annual privacy and opt-out notices to any third party. To the extent Subscriber is required by GLB, or any other law, to send privacy and opt-out notices to its donors, Subscriber shall assume full responsibility and all costs related to Subscriber's GLB compliance.

**F. HIPAA Compliance.** In the event that Subscriber is an entity subject to the regulations of Health Insurance Portability and Accountability Act ("HIPAA"), Subscriber is hereby notified and agrees that: (1) Crescendo services are not designed to retain or manage any HIPAA related Protected Health Information ("PHI"); (2) under federal law, including HIPAA, Crescendo is not and shall not be considered a Business Associate of Subscriber; and (3) Subscriber will not use or misuse any Crescendo services by uploading PHI on to Crescendo's servers or for purposes of managing or retaining PHI.

**G. European Union General Data Protection Regulation.** In the event that Subscriber uses any aspect of the GiftLaw service to collect, use, store or process information about any citizen of a European Union (EU) county, then: (1) Subscriber's activities shall, at all times, comply with the EU's "General Data Protection Regulation" (GDPR); (2) Subscriber agrees and affirms it will only use the "personal data" of an EU "data subject" after first determining that Subscriber has a lawful basis to process such data; and (3) the additional terms contained in the *EU Data Processing Addendum for Crescendo Services*, available for review at [crescendointeractive.com/terms](http://crescendointeractive.com/terms), will become incorporated by reference to form part of this Agreement.

**H. Confidentiality.** If Crescendo does have access to any confidential information about Subscriber, Subscriber's donors or prospective donors (which, for purposes of this section, is hereafter referred to as "confidential information"), then

Crescendo agrees that it will: (1) not use such confidential information for Crescendo's gain or benefit; (2) make all reasonable efforts to protect Subscriber's confidential information at least to the extent that Crescendo protects its own data; and (3) Crescendo will not disclose such confidential information to any other party without the express written permission of Subscriber or as may otherwise be required by law.

**I. Enhanced Security Measures.** Crescendo has periodically used, and will continue to use, as Crescendo deems necessary and prudent certain "enhanced security measures" to protect Subscriber's important and/or confidential information. These enhanced security measures may include temporarily or permanently blocking access to the GiftLegacy website and CresManager from internet protocol (IP) addresses which are located or registered outside of the United States and Canada. If Subscriber's staff should require access to the website or CresManager while traveling abroad, staff is encouraged to contact Crescendo prior to travel to inquire about any enhanced security measures currently in place.

**8. SPONSORSHIP AND ADVERTISEMENTS.** Crescendo permits Subscriber to obtain sponsorship of the GiftLaw website. Sponsorship is subject to prior approval by Crescendo, which approval may be withheld for any reason. Crescendo will place up to one approved sponsor logo (with hot links) on the navigation field of the GiftLaw home page. Expanded sponsor advertisements, logos and/or text descriptions of sponsor services or products may be limited at Crescendo's sole discretion. Crescendo will not place any third-party advertising on a Subscriber's GiftLaw website.

**9. MANAGEMENT SYSTEM.** Crescendo grants Subscriber the right to utilize the GiftLaw Management System to customize the GiftLaw website and to access the tools included in the system related to eMarketing. Crescendo is not liable for any modifications, additions or deletions made by Subscriber to the content of the GiftLaw website or any other GiftLaw materials or media provided with the GiftLaw Management System.

**10. USE OF THIRD PARTY SERVICES.** Use of third party services for email, statistical tracking, software, website framing or any other technologies where a third party reproduces or copies GiftLaw content or links onto a third party server is subject to approval by Crescendo. If Subscriber is granted permission by Crescendo to utilize third party services, Subscriber shall be liable for any alteration, change or omission to the GiftLaw website including changes to links, content, design, appearance or any other change. Subscriber shall not use any programs or tools that are link-checkers, web crawlers, SNMP traps or any web monitoring tool as these are strictly prohibited from being performed on Crescendo servers.

**11. ADMINISTRATIVE PROVISIONS.** Crescendo is an independent contractor and will comply with federal and state employment and other laws. Crescendo affirms ownership to copyrighted intellectual property inserted by Crescendo staff on the GiftLaw website. Crescendo currently maintains the following insurance coverage and limits: (1) a commercial general liability policy with limits of \$2,000,000 per occurrence / \$4,000,000 general aggregate; (2) an automobile liability insurance policy with combined single limit coverage of \$2,000,000 for Hired and Non-Owned Autos; (3) worker's compensation coverage with limits that meet or exceed the requirements of California state law; and (4) a professional liability / cyber and privacy & security liability policy, with limits of \$5,000,000 per claim / \$5,000,000 aggregate. Crescendo will, not more than once per year and upon written request from Subscriber, provide a certificate of insurance to Subscriber confirming Crescendo's insurance policies then in effect. Should Subscriber seek additional insurance coverage beyond those maintained by Crescendo, Subscriber may, in Subscriber's sole discretion, obtain such additional insurance at Subscriber's sole cost and expense.

**12. INTELLECTUAL PROPERTY.**

**A. Ownership of Intellectual Property.** Crescendo and Subscriber agree that the intellectual property of each party including, but not limited to, the trademarks, trade names, logos, copyrighted materials written works, photographs, images, graphic designs, service marks and symbols (collectively "intellectual property"), constitute valuable property rights. Crescendo and Subscriber agree that: (1) any intellectual property licensed hereunder from one party to the other shall, at all times, remain the property of the licensor of such property; (2) the licensee's use of such property shall, at all times, be subject to the terms of this Agreement; (3) any use not specifically authorized herein shall not be authorized except with the prior written permission of the licensing party; (4) any licenses granted in this Agreement shall terminate with the termination of this Agreement; and (5) given that the services described herein rely heavily on Crescendo's technology platform, the provisions of this contract that relate to online privacy and technology shall be interpreted in accordance with the laws of the State of California. Crescendo and Subscriber agree that, except with the prior permission of the party that owns such intellectual property, not to use the intellectual property of the other for any purpose other than as contemplated herein and as is necessary to carry out the terms of this Agreement.

**B. License and Use of Crescendo's Intellectual Property.** In addition to any non-exclusive, limited licenses granted by Crescendo to Subscriber under other sections of this Agreement, Crescendo hereby grants to Subscriber a non-exclusive, limited license to utilize the intellectual property owned by Crescendo related to Subscriber's applicable GiftLaw service level (Basic, Intermediate or Complete) including but not limited to intellectual property related to Subscriber's GiftLaw website design and style elements, content, photos, features and services as well as publishing content and literature provided as part of the GiftLegacy service (the "Crescendo Intellectual Property"). The license granted hereunder by Crescendo is both specific

and inclusive meaning: (1) use of the Crescendo Intellectual Property under this license is allowed by Subscriber only (and the Crescendo Intellectual Property licensed hereunder cannot be used by or for the benefit of any other party other than Subscriber, including related parties or third parties and whether or not the materials licensed hereunder specifically name any other party or not); and (2) any use of the Crescendo Intellectual Property not specifically described herein is not permitted. Examples of non-permitted uses would include: (1) placing or allowing to be placed on any non-Crescendo provided website or non-Crescendo maintained server any Crescendo Intellectual Property (regardless of the form originally produced by Crescendo or provided to Subscriber), provided however, that Subscriber may use materials licensed hereunder for social media marketing on Facebook and Twitter provided Subscriber has sole and exclusive control of any social media account where such content is used and the name on such account is that of Subscriber only; (2) using any Crescendo Intellectual Property in conjunction with planned giving fundraising for any organization other than Subscriber (whether specifically naming a related party or other third party or using the materials in a generic fashion), placing any name or logo of any organization other than Subscriber on any material licensed hereunder; (3) any assignment, sublicense, transfer, grant of rights by Subscriber to any related party, third party, other organization or entity whereby Subscriber purports to give such third party or other entity the rights to use the Crescendo Intellectual Property; (4) allowing any third party, other organization or entity to be named on or link to Subscriber's GiftLaw website, or in any printed materials licensed hereunder unless approved in advance, in writing by Crescendo's Senior Vice-President, which approval may be withheld, and if granted subsequently revoked, in Crescendo's sole discretion. Subscriber acknowledges and agrees that: (1) any licenses granted hereunder, including the right of Subscriber to use any Crescendo Intellectual Property in any form whatsoever, shall immediately expire upon the termination or expiration of this Agreement; (2) Subscriber's use of the Crescendo Intellectual Property shall, at all times, be subject to the terms and restrictions of this Agreement; (3) any exception to these terms granted by Crescendo may be revoked by Crescendo at any time, without notice; and (4) no action or inaction that expressly or by implication waives any provisions of this Agreement by Crescendo, its employees, officers, directors or agents, shall be considered a waiver of Crescendo's ability to subsequently enforce the terms of this Agreement and any limitations contained herein. Subscriber further acknowledges and agrees that: (1) Crescendo's source code for any software, gift calculator, application or other tools are confidential and a valuable and protected trade secret of Crescendo; and (2) Subscriber will not attempt to reverse engineer, decompile, deconstruct, disassemble or otherwise decipher the source code or any portion of the same. Crescendo affirms ownership to copyrighted intellectual property inserted by Crescendo staff on the GiftLaw website. Crescendo and Subscriber agree that a disclaimer similar to the following shall be included on all GiftLegacy and GiftLaw websites: *"This website is informational and educational in nature. It is not offering professional tax, legal, or accounting advice. For specific advice about the effect of any planning concept on your estate, please consult a qualified professional advisor."* Crescendo and Subscriber also agree that each page of the GiftLaw website will include the following to protect Crescendo's copyrights related to website content: *"Copyright © 2015 (or applicable year) by Crescendo Interactive, Inc."*

**C. License and Use of Subscriber's Intellectual Property.** By entering into this Agreement, Subscriber hereby represents that it has the authority to, and does hereby grant, Crescendo a limited license to use the name and logo of any entity named or featured in any aspect of the GiftLaw service as well as certain design aspects of Subscriber's primary website. The parties agree that the limited license for website design features described above shall: (1) only permit Crescendo to use such design features for use as part of Subscriber's GiftLegacy website and related services (but for no other websites or services that Crescendo may provide to any third party); and (2) that this limited license shall terminate with the termination of this Agreement. If Crescendo determines that Subscriber does not own and cannot to grant the design rights to Crescendo as described above, then Subscriber shall, using only the standard form provided by Crescendo, obtain a grant of the design rights from the owner of such rights to Crescendo so that Crescendo can use and incorporate such design elements into the GiftLaw website. If Subscriber is unable to obtain a grant of license from the owner of the design rights within three (3) business days, Subscriber will notify Crescendo by sending an email to Chris Jaarda at chrisj@cresmail.com and Subscriber agrees and understands that Crescendo will begin to code a design for the GiftLaw website that may need to omit many of the unique design aspects of Subscriber's primary website. Subscriber warrants that it has a license or other right to use and distribute any text, graphic, image, content, media or other material used or placed on a Crescendo GiftLegacy or GiftLaw website and any other, whether by use of the CresManager or other means. Subscriber may only incorporate copyrighted material owned by or licensed to Subscriber. Subscriber may not use copyrighted materials on or for the GiftLegacy or GiftLaw websites, which it does not own or for which it does not possess an appropriate license or permission to use.

**D. Limitations on Use of Crescendo Trade Names.** The following trademarks, trade names and service marks are the valuable intellectual property of Crescendo Interactive, Inc. and may not be used by Subscriber without the prior express written authorization of Crescendo: "Crescendo Interactive" "Crescendo" "GiftLegacy" "GiftLaw" "GiftLaw Pro" "GiftAttorney" "GiftCollege" "CresMobile" "Crescendo Pro" "CresPro" "Crescendo Estate" "CresEstate" "Crescendo Lite" "CresLite" "Crescendo Presents" "Crescendo Plus" "Crescendo Pro-Plus-Presents" "Crescendo Admin" "Crescendo Software" and all related logo and graphic designs. Nothing in this Agreement shall be construed to constitute any authorization of use of these trademarks, trade names or service marks.

**13. WARRANTIES.** Crescendo represents and warrants that: (1) it has the full legal right and authority to enter into this

Agreement and grant the rights described herein; (2) it is duly organized, validly existing and in good standing under the laws of the State of California; (3) neither Crescendo nor its officers, employees, agents or representatives have knowingly taken any action to Subscriber or Subscriber's employees to engage in an unethical practice which would, to Crescendo's knowledge, cause Subscriber or its employees to violate any applicable conflict of interest or ethics laws, regulations, rules or policies; and (4) that the individual offering these services in accordance with the terms contained herein, or who is negotiating on behalf of Crescendo, has been duly authorized to act for and bind Crescendo. The GiftLaw website is to be used solely for educational purposes. Crescendo does not warrant, and hereby disclaims any and all warranties, related to any specific tax or estate planning results indicated by any aspect of the GiftLaw program. Subscriber acknowledges that Crescendo is not providing Subscriber, or any potential donors to Subscriber or such donor's professional advisors with any tax, legal, financial or estate planning advice. All such donors must obtain their own qualified professional tax, legal or investment counsel. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, CRESCENDO DOES NOT MAKE ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES FOR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**14. LIMITATION OF DAMAGES. CRESCENDO SHALL NOT BE LIABLE FOR ANY DIRECT OR INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY SORT WHATSOEVER, WHETHER ARISING IN TORT, CONTRACT, OR OTHERWISE (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF INFORMATION, LOSS OF BUSINESS REVENUES, PROFITS OR CHARITABLE GIFTS, OR RELATED TO ANY BUSINESS INTERRUPTION) RESULTING FROM ANY USE, MISUSE OR DEFECT IN THE PRODUCTS LICENSED OR SERVICES PROVIDED HEREUNDER, EVEN IF CRESCENDO HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT OF ANY DEFECT, SUBSCRIBER'S SOLE AND EXCLUSIVE REMEDY SHALL BE LIMITED TO THE COST VALUE OF ONE YEAR OF GIFTLAW SERVICE. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSION MAY NOT APPLY TO LICENSEE.**

**15. MERGER AND SURVIVAL.**

**A. Merger.** The terms and services described or referenced herein, together with any applicable click-wrap agreement contained in other software or other license agreement, represent the entire agreement of the parties with respect to the subject matter of this agreement and supersede all prior negotiations, agreements and understandings with respect to the same. Acceptance of this Agreement is expressly limited to the terms of the offer made by Crescendo in the GiftLaw Letter of Agreement and Crescendo hereby objects, in advance, to any different or additional terms contained in any subsequent Purchase Order or other writing delivered by Subscriber pursuant to or in relation to this contract. This Agreement may only be amended by a written document duly executed by all parties except that Crescendo may annually request that Subscriber electronically reaffirm their acceptance of this Agreement, as may be modified pursuant to Section 5, in which case the terms of such reaffirmed agreement shall replace the terms contained herein and shall govern the relationship of the parties.

**B. Survival.** The provisions of this Agreement that are intended to survive termination or expiration of this Agreement shall survive and continue to bind the parties including: this Section 15 (related to survival of terms); Section 6 (related to Data Reports and Confidential Information); Section 7 (related to Privacy); Section 11 (related to Administrative Provisions); Section 12 (related to Intellectual Property); and Section 14 (related to Limitation of Damages).

**16. CHANGE IN TERMS.** Crescendo reserves the right to change the terms contained in this offer, without notice, at any time prior to acceptance of such offer by any potential Subscriber. After acceptance of these terms, Crescendo and Subscriber will be bound by the terms of this Agreement, except as may be changed in accordance with these terms.

**== END OF AGREEMENT ==**

**Crescendo Interactive, Inc., 110 Camino Ruiz, Camarillo, CA 93012**  
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