



## ***GiftLegacy Terms and Services***

The purpose of the GiftLegacy “Terms and Services” is to explain the process for your organization to sign up for the GiftLegacy service (“service”) and to establish the terms of use related to the service. The parties to this Agreement (as defined below) are Crescendo Interactive, Inc., a California corporation located at 110 Camino Ruiz, Camarillo, California 93012 (“Crescendo”) and your organization, a GiftLegacy subscriber which is limited to a single (“Subscriber”). To subscribe to the GiftLegacy service, Subscriber must sign a GiftLegacy Letter of Agreement (“Letter of Agreement” or “LOA”) and return the same to Crescendo. Crescendo and Subscriber (collectively the “parties” and individually a “party”) agree that: (1) the LOA references and incorporates these Terms and Services; (2) together the LOA and these Terms and Services constitute the “Agreement”; and (3) the Agreement, together with any applicable “click-wrap” agreement(s) associated with the service and referenced herein, shall govern the parties’ relationship in relation to Subscriber’s use of the service. In addition to these terms being incorporated by reference as part of the LOA, Subscriber will be asked periodically to affirm its acceptance of these terms as part of a “click-wrap” agreement when accessing the password-protected, back end management website related to the GiftLegacy service (hereafter referred to as the “CresManager”).

**1. DESCRIPTION.** The GiftLegacy service facilitates the effective electronic and print marketing of major, blended and planned gifts. The primary component of the GiftLegacy service is a custom website (the “GiftLegacy website”) whose function is to attract, educate and encourage potential donors about major and planned gifts. After signing the LOA, Subscriber will receive a GiftLegacy website that is designed, coded and customized by Crescendo in cooperation with Subscriber and which will have the look and feel of a website specified by Subscriber (typically Subscriber’s primary website which Subscriber maintains separately from the GiftLegacy website). Subscriber’s GiftLegacy website may include, but is not limited to, the following resources: online estate planning guide for donors; introductions to various giving methods; personalized electronic brochures for GiftLegacy website visitors to view and print; color illustrations for gift annuities and charitable trusts; donor stories that may be customized with specific examples of gifts made to Subscriber; weekly news regarding taxes, stocks and bonds; “Personal Planner” articles; and a staff section identifying Subscriber’s staff with photos and “Click Here” contact buttons. The GiftLegacy website will provide timely planning information and educate potential donors about major and planned gifts. Crescendo will provide periodic upgrades to the GiftLegacy website to enhance and improve donor-friendliness and communication effectiveness.

**2. SERVICE LEVEL.** By way of an election on the LOA, Subscriber will be able to choose between two different GiftLegacy “service levels” consisting of the “Pro” service level or “Intermediate” service level. The features of each are described below. Each service level includes one domain. Additional domains may be available for an added fee.

### **A. GiftLegacy Pro Services**

1. GiftLegacy Website
2. Custom Pages
3. eNewsletters/eBlasts
4. Literature
  - 4A. InDesign Literature
  - 4B. CresPrint Literature
5. Board of Directors
6. Analytics
7. CresSurvey
8. Presents Calculator
9. GiftLaw
10. CresManager
11. Online Wills Planner
12. CresPro Gift Illustration Software
13. CresPro Gift Annuity Marketer
14. GiftCharity
15. MyPlan/Scheduler
16. GiftLaw News
17. Seminars
18. CresLeader

### **B. GiftLegacy Intermediate Services**

1. GiftLegacy Website
2. eNewsletters
3. Literature (InDesign)
4. Board of Directors
5. Analytics
6. Presents Calculator
7. CresManager
8. CresLite Gift Illustration Software
9. MyPlan/Scheduler
10. Seminars
11. CresLeader

**A. GiftLegacy Pro Service.** The following features are included with the GiftLegacy Pro service level:

1. **GiftLegacy Website.** The GiftLegacy website is a custom-designed website designed by Crescendo's in-house design team in collaboration with Subscriber's staff. The GiftLegacy website will be designed to match Subscriber's branding and will incorporate hyperlinks to Subscriber's primary website. The GiftLegacy website includes dynamic website widgets for donor advised funds (DAF), IRA charitable rollovers and beneficiary designation gifts. The GiftLegacy website will include the ability to place Crescendo-produced rotating content for subjects relevant to donors and a powerful capability that allows Subscriber to personalize and modify the GiftLegacy website content. Crescendo generally avoids linking to external websites with limited exceptions for government and public service sites (such as links to the *Social Security Administration, Centers for Medicare & Medicaid Services, Internal Revenue Service, etc.*).

2. **Custom Pages.** GiftLegacy Pro includes up to eight custom webpages for the GiftLegacy website. Subscriber may submit text and images to Crescendo to feature on these pages. Crescendo will review the proposed content for these pages and if content complies with these terms, Crescendo will design, code and format the custom pages. Subscriber shall be solely responsible for the accuracy and completeness of the content for any custom pages.

3. **eNewsletters.** The GiftLegacy service includes the ability to send weekly electronic newsletters ("eNewsletters") for distribution by Subscriber to donors and potential donors. These are prepared by Crescendo and customized using Subscriber's colors, logo, look, feel and branding. eNewsletters include articles for donors on timely topics such as personal finance, estate planning, a lifestyle column and tax news from Washington, D.C. Subscriber may edit and customize the eNewsletter header to announce Subscriber's own news and events. eNewsletters allow Subscriber to generate GiftLegacy website traffic and help educate, increase contact and build relationships with donors and potential donors. Subscriber may customize any legal disclosures contained on the eNewsletters. Crescendo may employ a third party service provider for email delivery and validation services. Subscriber must accept the Terms of Service for Crescendo eNewsletter e-Mail Service and upload an email list to distribute eNewsletters.

4. **Literature.** The GiftLegacy service also provides Subscriber with the ability to access and the right to customize and use Crescendo's royalty-free literature which includes variations of the Estate Planning Guide and print materials such as quarterly marketing packages, newsletters, brochures, briefs, ads, inserts, postcards and email templates that highlight current GiftLegacy website content and/or which feature various major and planned gift topics. This literature is available and editable in two different formats:

4A. **InDesign Literature.** The GiftLegacy service includes literature available in an Adobe-compatible InDesign™ format that will allow Subscriber to download, customize and edit the content, font and photos contained in the templates (a license for InDesign™ is not included with the service). Many of the literature templates are available in a Desktop Printing format. Subscriber must retain an unedited version of Crescendo's copyright on all InDesign™ literature, however, Subscriber is authorized to edit the legal disclosure/disclaimer consistent with these terms.

4B. **CresPrint.** CresPrint is Crescendo's proprietary, internet-based literature editing and publishing platform that produces high-quality, custom literature to meet Subscriber's print marketing needs. CresPrint includes a literature library with each piece custom branded with Subscriber's colors, logo and contact information. Using the CresPrint interface, Subscriber can easily edit, customize and change any CresPrint literature piece including logos, photos, fonts, text and colors. CresPrint materials can be printed using CresPrint's online interface, by placing an order with a CresPrint printer, sending a design file to a printer of Subscriber's choosing or with desktop printing.

5. **Board of Directors.** GiftLegacy offers training sessions for your Boards of Directors covering different planned giving topics. Each session includes a streaming video, slide presentation, article and 10-question quiz.

6. **Analytics.** GiftLegacy offers extensive statistics and donor analytics that show GiftLegacy website and eNewsletter activity. Subscriber can see click-through, open, visit, opt-out and spam rate performance, compare eNewsletter performance rates with industry standard benchmarks, view literature downloads, and view a list of opt-outs that can no longer be used for distribution. Donor analytics enables Subscriber to view actual donor activity and interest in particular gifts, a powerful tool that is very beneficial in target marketing.

7. **CresSurvey.** Surveys are a powerful tool for donor engagement. CresSurvey enables Subscriber to conduct regular, segmented surveys to discover new donors, disclose current planned gifts, show a future willingness to leave a bequest and prepare donors for future major gifts. CresSurvey is designed to be a complete tool for creating, conducting and processing survey information. Subscriber may create a survey, upload a selected donor email list and send questions to donors. After a donor has completed the survey, the results will be available in CresManager.

**8. Presents Calculator.** GiftLegacy also includes Crescendo's GiftLegacy Presents Calculator, allowing donors or potential donors to obtain personalized, color illustrated "web proposals" of different gift options directly from Subscriber's GiftLegacy website. The GiftLegacy Presents Calculator is customized to include Subscriber's logo, colors and branding. Subscriber may use the Web Manager to modify and expand the Presents Calculator privacy statement and legal disclosures. The GiftLegacy Presents Calculator is integrated into the design/frames of the GiftLegacy website and allows Subscriber to set default trust return rates and displays contact information so donors and potential donors who use the GiftLegacy Presents Calculator can respond to the web proposal provided to them.

**9. GiftLaw.** Crescendo's GiftLaw service consists of eMarketing tools for building eRelationships with CPAs, attorneys and other professional advisors. GiftLaw links professional advisors to the GiftLegacy website provider content. This content contains tax news, GiftLaw charitable deduction calculator and the GiftLaw Pro charitable tax reference service. GiftLaw also includes weekly eNewsletters for distribution by Subscriber to professional advisors. The GiftLaw eNewsletter features the latest news from Washington, tax law updates, Internal Revenue Service private letter rulings, case studies and other timely articles in planned giving. GiftLaw Pro is a charitable tax reference guide that also includes a compilation of charitable tax planning articles.

**10. CresManager.** Subscriber will receive individual user accounts to access CresManager.com, the service's marketing manager. GiftLegacy Pro Subscriber accounts include sections for the following: (1) Website Manager; (2) Analytics; (3) GiftCollege; (4) eNewsletters (GiftLegacy, GiftLaw and eBlasts); (5) Literature; (6) Marketing Campaigns; (7) Provide & Protect Bequest Marketing; (8) Social Media; and (9) Online Wills Planner. CresManager is updated frequently with new marketing features and services. These sections and features are subject to change.

**11. Online Wills Planner.** As standard features of the GiftLegacy website, Subscriber will be able to offer donors access to a printable-PDF Estate Planning Guide and an Online Wills Planner ("OWP") by way of weblinks. The OWP is an online account portal that will guide donors through a discussion of issues related to the creation of a complete estate plan. Donors may enter the data necessary to provide information to their attorney (or a GiftAttorney approved by Subscriber) to aid in the preparation of a will and/or trust, including charitable bequests in such documents, healthcare directives and powers of attorney. (If active on Subscriber's GiftLegacy website, use of the OWP is subject to additional terms which: (1) are available for review at [crescendointeractive.com/terms](http://crescendointeractive.com/terms); and (2) are hereby incorporated by reference and expressly made part of this agreement.)

**12. CresPro Gift Illustration Software.** GiftLegacy Pro includes two (2) individual user licenses for "CresPro" donor proposal software for major, blended and planned gifts. The Master Gift Case is a one-page key to success with donors. The Master Gift Case incorporates the customization options of CresPrint and allows licensed users to create an effective custom branded gift proposal to help close major, blended and planned gifts. In addition, CresPro access includes CresPlus which consists of PowerPoint™ slides for group presentations related to planned gifts. In the event Subscriber has more than two staff members who require access to donor proposal software, additional CresPro licenses are available for an additional price. Subscriber can contact Crescendo, at any time, to obtain information and current pricing for additional licenses.

**13. CresPro Gift Annuity Marketer.** The GiftLegacy Pro Admin controls the Gift Annuity Marketer tool in CresPro's Charitable Gift Annuity Program (53). The Gift Annuity Marketer tool creates a batch of customized, persuasive marketing literature through CresPrint's integrated proprietary technology. The Gift Annuity Marketer tool incorporates the customization options of CresPrint. Illustrations are custom branded with Subscriber's colors, logo, photos, fonts, text and contact information with donor friendly explanations of gift annuity benefits to create motivational marketing pieces for your individual donors in a time and budget friendly way.

**14. GiftCharity.** The GiftCharity feature allows Subscriber to authorize and manage webpages for individual affiliate charities (an affiliate is referred to hereafter as "GiftCharity"). This webpage enables donors of the GiftCharity to access Subscriber's How to Give, What to Give and Professional Advisors pages on Subscriber's GiftLegacy website. The GiftCharity webpage may feature branded literature produced by Subscriber from the files contained in the literature library of the GiftLegacy tab in the CresManager (this precludes use of CresPrint for a GiftCharity). Subscriber may select one or two brochures and a printable-PDF Estate Planning Guide from Subscriber's CresManager and brand and distribute those items to the GiftCharity. The two brochures and the Estate Planning Guide are royalty-free for the Subscriber and the GiftCharity affiliate. If the Subscriber is willing to maintain an email distribution list for the GiftCharity, then a weekly eNewsletter co-branded for Subscriber and the GiftCharity may be sent to donors. Use of the GiftCharity feature is subject to certain restrictions which can be viewed at [crescendointeractive.com/terms](http://crescendointeractive.com/terms).

**15. MyPlan/Scheduler.** Subscriber can use CresManager to develop, schedule and manage a multichannel marketing campaign using MyPlan/Scheduler. The MyPlan/Scheduler Questionnaire will produce a marketing plan and budget for your marketing campaign and you can use the Calendar function of Scheduler to manage and track the details of

your campaign.

**16. GiftLaw News.** The GiftLaw News program is designed for you to share timely charitable planning and tax information with professional advisors at events such as a Professional Advisory Council (PAC) breakfast or lunch. Each program covers a specific charitable planning topic with examples. The GiftLaw News program includes downloadable resources such as PowerPoint presentations and written materials that a subscriber/event host can distribute. GiftLaw News may also be helpful for training gift planning and major gifts officers.

**17. Seminars.** Subscriber will be eligible for special price discounts related to Crescendo-hosted seminars and Crescendo's annual Practical Planned Giving Conference. The nature of these discounts is subject to change and may be subject to certain criteria or limits, such as registering in advance of any early-bird registration deadline.

**18. CresLeader.** With CresLeader, the GiftLegacy Pro or Intermediate Admin controls the website and supervises secondary accounts and software users. The CresLeader Admin can set up GiftLegacy secondary accounts, create CresPro accounts and establish CresPro groups or a shared file system. He or she may transfer, move, suspend or delete an account and set privileges for secondary accounts or CresPro software users. Donor proposal reports are available to view donor analytics. Donor proposal analytics enable the CresLeader Admin to view proposals by user, date, donor, program or amount. In the Settings section, the GiftLegacy Admin can also set the parameters for staff sign-in and security requirements, such as the password length and dates for changing passwords. CresLeader enables the Admin to manage, monitor and view staff activity.

**B. GiftLegacy Intermediate Service.** The following features are included with the GiftLegacy Intermediate service level:

**1. GiftLegacy Website.** The GiftLegacy website is a custom-designed planned giving website designed by Crescendo's in-house design team in collaboration with Subscriber's staff. The GiftLegacy website will be designed to match Subscriber's branding and will incorporate hyperlinks to Subscriber's primary website. The GiftLegacy website will include the ability to place Crescendo-produced rotating content for subjects relevant to donors and a powerful capability that allows Subscriber to personalize and modify the GiftLegacy website content. Crescendo generally avoids linking to external websites with limited exceptions for government and public service sites (such as links to the *Social Security Administration, Centers for Medicare & Medicaid Services, Internal Revenue Service, etc.*).

**2. eNewsletters.** The GiftLegacy service includes the ability to send weekly electronic newsletters ("eNewsletters") for distribution by Subscriber to donors and potential donors. These are prepared by Crescendo and customized using Subscriber's colors, logo, look, feel and branding. eNewsletters include articles for donors on timely topics such as personal finance, estate planning, a lifestyle column and tax news from Washington, D.C. Subscriber may edit and customize the eNewsletter header to announce Subscriber's own news and events. eNewsletters allow Subscriber to generate GiftLegacy website traffic and help educate, increase contact and build relationships with donors and potential donors. Subscriber may customize any legal disclosures contained on the eNewsletters. Crescendo may employ a service provider for email delivery and validation services. Subscriber must accept the Terms of Service for Crescendo eNewsletter e-Mail Service and upload an email list to distribute eNewsletters.

**3. Literature.** The GiftLegacy service also provides Subscriber with the ability to access and the right to customize and use Crescendo's royalty-free literature which includes variations of the Estate Planning Guide and print materials such as quarterly marketing packages, newsletters, brochures, briefs, ads, inserts, postcards and email templates that highlight current GiftLegacy website content and/or which feature various gift topics. Literature for the Intermediate service is available in InDesign™ format. Over 1,000 pieces of literature are available in an Adobe-compatible InDesign™ format that will allow Subscriber to download, customize and edit the content, font and photos contained in the templates (a license for InDesign™ is not included with the service). Many of the literature templates are available in a Desktop Printing format. Subscriber must retain an unedited version of Crescendo's copyright on all InDesign™ literature, however, Subscriber is authorized to edit the legal disclosure/disclaimer consistent with these terms.

**4. Board of Directors.** GiftLegacy offers training sessions for your Board of Directors covering different planned giving topics. Each session includes a streaming video, slide presentation, article and 10-question quiz.

**5. Analytics.** GiftLegacy offers extensive statistics and donor analytics that show activity on the GiftLegacy website and eNewsletters. Subscriber can see click through, open, visit, opt-out and spam rate performance, compare eNewsletter performance rates with Crescendo's industry standard benchmarks, view literature downloads, and view email addresses that have opted-out of communication and which can no longer be used for distribution. Donor analytics enables Subscriber to view actual donor activity and interest in particular gifts, a powerful tool that is very beneficial in target marketing.

**6. Presents Calculator.** GiftLegacy also includes Crescendo's GiftLegacy Presents Calculator, allowing donors or potential donors to obtain personalized, color illustrated "web proposals" of different gift options directly from Subscriber's GiftLegacy website. The GiftLegacy Presents Calculator is customized to include Subscriber's logo, colors and branding. Subscriber may use the Web Manager to modify and expand the Presents Calculator privacy statement and legal disclosures. The GiftLegacy Presents Calculator is integrated into the design/frames of the GiftLegacy website and allows Subscriber to set default trust return rates and displays contact information so donors and potential donors who use the GiftLegacy Presents Calculator can respond to the web proposal provided to them.

**7. CresManager.** Subscriber will receive individual user accounts to access CresManager.com, including the following: (1) Website Manager; (2) Analytics; (3) Board of Directors; (4) eNewsletters (excluding GiftLaw and eBlasts); (5) Literature (with Campaigns and Desktop Printing); (6) Provide & Protect Bequest Marketing (excluding the Online Wills Planner system); and (8) Social Media. CresManager is updated frequently with new marketing features and services. This list of sections and features may change without notice.

**8. CresLite Gift Illustration Software.** GiftLegacy Intermediate includes two (2) individual user licenses for "CresLite" software. CresLite software is used to create personalized donor illustrations for many basic planned gifts. In the event Subscriber has more than two staff members who require access to donor proposal software, additional licenses are available for an additional price. Subscriber can contact Crescendo, at any time, to obtain information and current pricing for additional licenses.

**9. MyPlan/Scheduler.** A GiftLegacy Intermediate subscriber can also use the CresManager to develop, schedule and manage a multichannel marketing campaign using MyPlan/Scheduler. The MyPlan/Scheduler Questionnaire will produce a marketing plan and budget for your marketing campaign. You can use the Calendar function of Scheduler to manage and track the details of your campaign.

**10. Seminars.** A GiftLegacy Intermediate subscriber will be eligible for special price discounts to attend Crescendo's Practical Planned Giving Conference. The nature of these discounts is subject to change and may be subject to certain criteria or limits (such as registering in advance of any early-bird registration deadline).

**11. CresLeader.** With CresLeader, the Intermediate Admin controls the website and supervises secondary accounts and software users. The CresLeader Admin can set up secondary accounts, create software accounts and establish CresPro groups or a shared file system. He or she may transfer, move, suspend or delete an account and set privileges for secondary accounts or software users. Donor reports are available to view donor analytics. Donor analytics enable the CresLeader Admin to view software proposals by user, date, donor, program or amount. With the My Settings section, the GiftLegacy Admin can also set the parameters for staff sign-in and security requirements, such as the password length and dates for changing passwords. CresLeader enables the Admin to manage, monitor and view staff activity.

**3. ROTATING CONTENT.** One of the most powerful features of the GiftLegacy website is that it includes new, weekly and rotating content. This content permits Subscriber to market planned giving with modest effort or maintenance. This is possible because Subscriber's GiftLegacy website is maintained on Crescendo's servers, allowing Crescendo to update the GiftLegacy website content each week. In addition, the content of Subscriber's GiftLegacy website rotates so that different features and stories are highlighted when a donor or potential donor visits the GiftLegacy website. The GiftLegacy website can be seamlessly integrated with Subscriber's primary website, including various links to the primary website.

**4. SET UP PROCEDURE.** Subscriber can sign up for the GiftLegacy service and obtain a GiftLegacy website by completing the following steps: (1) execute the GiftLegacy LOA and the GiftLegacy Information Form; and (2) return the same to Crescendo by way of fax, email or U.S. mail. Crescendo staff will then contact Subscriber to discuss Subscriber's planned giving goals and to explain the process and timeline for completion of the website. To enhance the design of the GiftLegacy website and to produce the most effective marketing, Subscriber should gather and be prepared to submit Subscriber's logo and mission-related photos to Crescendo and prepare one or more planned giving related email distribution lists (the best practice is separate lists based on principles of segmentation and target marketing) that Subscriber will be able to upload to CresManager. Crescendo will request a logo from Subscriber for both electronic and print publications. Crescendo may obtain Subscriber's logo from the Subscriber's website or a Subscriber-generated PDF. It is preferred that Subscriber provides its logo in a graphic file to Crescendo. All Subscriber logos will be incorporated only in electronic and print publications of the respective Subscriber. Crescendo will then design, code and customize Subscriber's GiftLegacy website using the colors, look and feel of Subscriber's primary website (or another site indicated by Subscriber, provided such site is not subject to a third party copyright) and include links to other sections of the primary website. Upon approval from

Subscriber, Crescendo will activate the GiftLegacy website and Subscriber may begin using GiftLegacy content in Subscriber's print and email publications.

**5. MAINTENANCE.** Crescendo uses Amazon Web Services (AWS) to provide infrastructure management of the GiftLegacy websites, CresManager, CresPro and related software systems. Crescendo and AWS maintain backups of GiftLegacy system data. This system provides a secure and reliable platform. While Crescendo maintains most of the content of Subscriber's GiftLegacy website, Subscriber has the ability, through the CresManager, to modify some parts of the GiftLegacy website, eBlasts, eNewsletters and print materials. Crescendo disclaims any responsibility for modifications made by Subscriber. Subscriber agrees to adopt prudent policies to ensure that any person having a CresManager user account connected to Subscriber's use of the GiftLegacy service: (1) will not share their username and password with any unauthorized person (including co-workers); and (2) will regularly change their CresManager user account password. While Crescendo regularly tests links and system functionality, Subscriber shall remain solely responsible for testing any links between any websites maintained by Subscriber and the GiftLegacy website, particularly as they relate to custom content, to ensure such links are functioning correctly.

## **6. DURATION, RENEWALS AND CANCELLATION OF SERVICE.**

**A. Initial Term.** The term of service for this Agreement shall commence as of the date that Subscriber executes the GiftLegacy Letter of Agreement (the "Commencement Date") and shall remain in full force and effect for the term elected by Subscriber in the Letter of Agreement (the "Initial Term"). If Subscriber did not select an Initial Term by checking a box on the Letter of Agreement, the Parties agree that the Initial Term shall be for a period of one (1) year at the Pro service level. Subscriber shall have the right to cancel this Agreement without cost, penalty or liability for a period of ten (10) days following the Commencement Date by sending a written notice to Crescendo in a form consistent with Section 6F below.

**B. Renewals.** This Agreement shall be renewed for subsequent periods of the same duration as the Initial Term (a "Renewal Term") unless one party gives the other party written notice of termination at least thirty (30) days prior to the expiration of the then-current term. The first day of any Renewal Term is herein referred to as a "Renewal Date." Approximately sixty (60) days prior to a Renewal Date for annual renewing contracts, Crescendo will give electronic notice to Subscriber that the current term is about to expire. Approximately thirty (30) days before the Renewal Date, Crescendo will invoice Subscriber for the cost of the Renewal Term (with payment terms on a Net-45 day basis) at a price equal to the then-current rate for services offered by Crescendo based on: (1) the length of such Renewal Term; and (2) Subscriber's then-current service level. If a cancellation notice is not timely received by the non-cancelling party, then the party seeking to cancel this Agreement agrees that this Agreement will be renewed for a full term and, in the case of Subscriber, Subscriber also agrees to pay the cost of service as reflected on the renewal invoice submitted by Crescendo related to such term and that such payment will be in-full, without any proration, offset or reduction for any unused portion of any Renewal Term. Subscriber understands that this is an essential component of the contract and that Crescendo will, if a cancellation notice is not timely received, incur certain expenses related to such renewal of service for which only payment in-full for said term can adequately compensate Crescendo.

**C. Invoice Payment Options.** Crescendo accepts checks, ACH and credit card as payment. For credit card payments, a surcharge of two percent (2%) will apply.

**D. Volume Pricing.** In the event that Subscriber is part of a GiftLegacy Group, meaning Subscriber together with six (6) or more organizations that are recognized by Crescendo as "related" organizations under Crescendo's then-current volume pricing policy, then Crescendo will extend a volume pricing discount to Subscriber for any Renewal Term provided that, at the time of such renewal, such group contains not less than six (6) organizations that have an active GiftLegacy subscription. If, at such time, there are less than six (6) such related organizations, this volume pricing discount will not be provided to Subscriber at the time of renewal.

**E. Cancellation.** Either party may terminate this Agreement by providing the other party with not less than thirty (30) days written notice of their intent to terminate this Agreement. If a termination notice is sent more than thirty (30) days prior to a Renewal Date, this Agreement shall terminate effective as of the last day of the current term, unless the parties agree to an earlier effective date. If such notice is sent less than thirty (30) days prior to a Renewal Date, this Agreement shall continue in duration for the current term and the subsequent Renewal Term and Subscriber shall be responsible for payment of the full cost for the Renewal Term without any right of offset or proration in the event Subscriber does not use the service for the full Renewal Term. Regardless of when a termination notice is sent, Subscriber shall: (1) be permitted to use the GiftLegacy service for the balance of the term(s) described above; or (2) elect to immediately have the GiftLegacy website taken offline and Subscriber's CresManager accounts deactivated, but in either event, Subscriber shall not be entitled to any prorated refund or have the right to make any partial payments related to the provision of service.

**F. Notices.** Any notice sent pursuant to this Section shall be sent by email or by U.S. Mail. Notices sent to Crescendo must be sent: (1) if by email, to *billing@cremail.com*; and (2) if by U.S. Mail, by way of certified mail, return receipt requested to Crescendo Interactive, Inc., ATTN: Billing Dept., 110 Camino Ruiz, Camarillo, CA 93012. Notices sent by U.S. mail shall be deemed effective upon the expiration of five (5) calendar days from the date of mailing. Notices sent to Subscriber will be sent to the email address of Subscriber's primary CresManager account user.

**G. Modifications.** As technology and features are updated within the GiftLegacy system, this agreement will also be updated electronically. Notwithstanding such modifications, the pricing for services provided under this Agreement may only be modified at the renewal of this Agreement. Subscriber may periodically be asked to accept updated terms electronically, by way of a click-wrap agreement when logging into the CresManager. A current PDF copy of these Terms and Services is also available for download at [www.crescendointeractive.com/terms](http://www.crescendointeractive.com/terms). Subscriber retains its cancellation rights under Section 6E above if Subscriber, in its sole discretion, determines that an updated agreement is not acceptable. Crescendo encourages Subscriber to recognize that the most successful GiftLegacy programs and largest eGifts have occurred after use of the GiftLegacy service for three years. Although Subscriber may see immediate results from the GiftLegacy website, such as increased donor inquiries and closed planned gifts, new marketing programs typically develop progressively.

**7. DATA COLLECTION.** Crescendo will collect data for statistical reports used for educational purposes to benefit Subscriber, such as the number of site visitors, pages visited and monthly totals. This statistical data and donor analytics will be available to Subscriber through Subscriber's password protected CresManager account. With respect to the Online Wills Planner ("OWP"), Subscriber will only be able to see basic user and statistical information for OWP accounts. If an OWP account owner chooses to contact Subscriber through the GiftLegacy website, additional information about the account owner will be made available to Subscriber in the CresManager and/or sent to a contact email controlled by Subscriber. Crescendo may also collect general, non-specific statistical data and aggregate the same for all Crescendo clients who use the GiftLegacy service for purposes of reviewing and testing effectiveness and security of the service and for making improvements related to the same.

## **8. DATA OWNERSHIP & SECURITY, PRIVACY AND CONFIDENTIALITY.**

**A. Subscriber Data.** Crescendo agrees that all third-party personal information obtained through Subscriber's GiftLegacy 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, donor and other 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 a 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 applicable state and federal law, including 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 GiftLegacy website. This Privacy Statement discloses: (1) the kind of information that the GiftLegacy 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 applicable state and federal law; and (2) is based on the specific design, functionality and data collection practices of the GiftLegacy technology (such as how the CresManager, GiftLegacy website, 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 GiftLegacy 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 GiftLegacy website visitor. 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. For material changes to the privacy statement, you may be required to notify your constituents per state law.

**D. Email Opt-Out (CAN-SPAM) Compliance.** Crescendo and Subscriber agree that they will each comply with applicable state 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 it 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 all sections of this Agreement, the description "donor" shall also include potential donors who access the GiftLegacy website. 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 the 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 and any other legal 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 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 Privacy Compliance.** In the event that Subscriber uses any aspect of the GiftLegacy service to collect, use, store or process information about any citizen of a European Union (EU) country, then Subscriber agrees that: (1) Subscriber's activities shall, at all times, comply with the EU's "General Data Protection Regulation" (GDPR); (2) Subscriber will only use the "personal data" of an EU "data subject" (as defined in GDPR) after first determining that Subscriber has a lawful basis to process such data; and (3) the 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. The parties acknowledge that: (1) GDPR was adopted by the EU to protect the privacy of EU data subjects with respect to personal data; and (2) Subscriber must comply with GDPR's requirements if Subscriber engages in an activity regulated by GDPR. If Subscriber wants to avoid using GiftLegacy in ways regulated by the EU, Subscriber shall: (1) request, in writing, that Crescendo block access to the GiftLegacy website from any internet protocol (IP) address based in the EU; (2) remove information about any EU data subject from any email distribution list that Subscriber has uploaded or will upload to the CresManager; (3) refrain from inputting any data about an EU data subject in any part of the CresManager, including in CresPro, CresEstate or CresLite; and (4) review all of its activities to ensure that they do not trigger any GDPR-compliance obligations.

**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. Crescendo will ensure that each person processing personal data on behalf of Crescendo is subject to a duty of confidentiality. Crescendo may use subcontractors to fulfill duties under this Agreement and will bind such subcontractor to written data protection terms that require the subcontractor to assist Crescendo in complying with its legal obligations hereunder including responses to access, correction and deletion requests and, where applicable, upon written notice to Subscriber.

**I. Consumer Privacy Rights.** Crescendo collects information that identifies, relates to, describes, references, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household ("Personal Information"). Crescendo shall not retain, use or disclose the Personal Information for any purpose other than for the specific purpose of performing the services set forth in Agreement or the direct business relationship between the Parties. The Parties agree to limit the collection, sale, or use of Personal Information disclosed, except as necessary to perform the Business Purpose for which Crescendo was retained. Crescendo certifies that it understands the



restrictions of applicable state and federal privacy laws. Applicable state privacy laws include: the California Consumer Privacy Act, as amended by the California Privacy Rights Act; the Colorado Privacy Act; Connecticut's Act Concerning Data Privacy and Online Monitoring; and the Virginia Consumer Data Protection Act. In the event Crescendo receives an authenticated request from a Consumer related to the Consumer's Personal Information, Crescendo shall comply with such request. Consumer requests may be made, pursuant to applicable state and federal privacy laws, at any time by submitting an authenticated request on Crescendo's Privacy Rights request form (<https://www.crescendointeractive.com/misc/ccpa-request.html>) or by calling telephone number (800) 858-9154. Crescendo ensures all individuals responsible for handling privacy rights inquiries regarding Crescendo's privacy practices or Crescendo's compliance are trained in the legal requirements and how to direct consumers to exercise their rights. While some state consumer privacy laws exempt nonprofits, in the event that Subscriber is an entity subject to such laws, Subscriber takes responsibility for its own actions in compliance.

**J. Additional Privacy Disclosures.** Crescendo shall utilize commercially reasonable efforts and security measures to prevent any Data Breach that could undermine the security and confidentiality of Subscriber Data. Crescendo will deploy security measures that are appropriate and proportionate given the nature and sensitivity of any of Subscriber's Data. Crescendo will comply with reasonable requests of Subscriber and make available the requisite information in its possession necessary to demonstrate compliance with the obligations of any applicable law.

**K. 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. Enhanced security measures may include bot detection and geolocation of website visitors. Crescendo may temporarily or permanently block 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.

## **9. eLITERATURE LIMITED LICENSE.**

**A. General Terms.** With this Agreement, Crescendo hereby grants Subscriber a non-exclusive, royalty-free, annual license to use the literature offerings located in the CresManager (the "GiftLegacy Literature"). For purposes of this grant of License, the GiftLegacy Literature includes: (1) those templates included in the CresManager which are coded in an InDesign™ format; (2) materials which may be included as downloadable materials directly by GiftLegacy website visitors; (3) the Newsletters described in Section 10 of this Agreement; and (4) if applicable to Subscriber's GiftLegacy service level, those materials which are available by way of CresPrint. GiftLegacy Literature includes postcards, brochures, newsletters, holiday cards, briefs, estate planning guides and articles. Subscriber may edit, print and distribute the GiftLegacy Literature without royalty payments to Crescendo, but usage of these materials is subject to the following provisions. Subscriber: (1) must, at all times when using, producing, modifying, printing and distributing any GiftLegacy Literature, have in place and maintain an active GiftLegacy subscription with Crescendo (any downloading, editing, use or distribution of the GiftLegacy literature, in whole or in part, without a pre-paid annual license is hereby prohibited and constitutes a violation of Crescendo's copyright with respect to such materials); (2) shall only use the GiftLegacy Literature to promote gifts specifically and exclusively for Subscriber (and only as Subscriber's name is reflected on the LOA) and not in conjunction with any other name, nor for any other organization including related entities (whether including the name of any other organization on the GiftLegacy Literature specifically, by generic reference or by distributing the GiftLegacy Literature as unbranded literature); (3) shall ensure that each printing or publication of each literature piece includes, in at least 8-point or larger type and in clear and conspicuous color so as to distinguish the font from the surrounding text and background, the following: "[Article/Materials/Etc.] © Copyright (applicable year) by Crescendo Interactive, Inc. Used with permission." It is the responsibility of Subscriber to proof all GiftLegacy Literature and/or content located on the GiftLegacy website. Crescendo is not responsible for the accuracy or completeness of Subscriber's contact information or content, including Subscriber modifications to GiftLegacy literature. Editing templates coded in InDesign™ format requires Adobe InDesign™ (or compatible) software (a license for such software is not included with the GiftLegacy service).

**B. Terms Specific to CresPrint.** The GiftLegacy Pro service also includes Crescendo's proprietary "CresPrint" internet-based editing and publishing platform. With CresPrint, Subscriber can customize CresPrint literature and, with a few clicks of the mouse, can edit text using fonts incorporated into CresPrint or with custom font software uploaded by Subscriber (font software must be in a true type format, open type format or web open font (WOFF) format). Subscriber may also change colors and change, center and size photos and logos. Subscriber's use of CresPrint is subject to the limitations and restrictions contained herein, including without limitation those described in Sections 9A and 17B. Subscriber may only upload and use photos and font software in CresPrint that Subscriber owns or has the legal right to use. This includes photos transferred to your organization through a valid photo transfer and release document. Subscriber shall not upload any photos subject to a third party end user license agreement. Subscriber shall, prior to uploading any

font software to the CresManager, obtain the appropriate server-based license for such software and will, at all times, comply with any terms of any license agreement related to use of the same which Subscriber agrees may include seat license or server limitations. Only CresManager accounts associated with Subscriber's use of the GiftLegacy service will be able to access any photos and fonts uploaded to the CresManager by Subscriber. If Crescendo receives any complaint or legal notice that Subscriber's use of any photos, font software or other intellectual property violates any third party intellectual property rights, including copyright, or that Subscriber has violated the terms of this license agreement and any restrictions on use related to CresPrint, then Subscriber agrees that: (1) Crescendo may take whatever steps Crescendo deems necessary to address such claims including, without notice to Subscriber, immediately removing any photos, font software or other materials subject to such claim from Subscriber's CresManager account; (2) Crescendo may temporarily or permanently suspend Subscriber's use of CresPrint as part of the GiftLegacy service; and (3) Subscriber will assume full legal and financial responsibility for any claims related to Subscriber's misuse of any photos or font software that Subscriber uploaded to the CresManager.

**10. QUARTERLY NEWSLETTER.** The literature license granted and described in Section 9A above includes a license permitting Subscriber to download, modify, use and distribute the GiftLegacy printable Quarterly Newsletters. Use of these Quarterly Newsletters is subject to terms of the license contained in Section 9A (including with respect to Crescendo's copyright). Subscriber shall have a limited license to modify and edit the Quarterly Newsletter content, but may not use such content in conjunction with any third-party services. Subscriber may add Subscriber's name, logo and contact information on the Newsletter and may replace one or more pages with custom articles specific to the organization. Subscriber may not incorporate any copyrighted material from a third-party source (but may include original content produced by Subscriber) into the Quarterly Newsletter. It is the responsibility of Subscriber to print out and proof any copies of the GiftLegacy Quarterly Newsletter. Crescendo is not responsible for the accuracy or completeness of Subscriber's contact information or content, including Subscriber modifications, to the Quarterly Newsletter.

**11. GIFT ILLUSTRATION SOFTWARE.** GiftLegacy includes two (2) individual user licenses for Crescendo software (GiftLegacy Pro bundled software consists of CresPro online software and GiftLegacy Intermediate consists of CresLite online software). Use of the Crescendo Software is subject to the terms of a certain "Crescendo Software License Agreement" which is a separate click-wrap license agreement (referred to hereafter as the "CSLA"). The CSLA is: (1) available for review at [crescendointeractive.com/terms](http://crescendointeractive.com/terms); and (2) hereby incorporated by reference and expressly made part of this Agreement. The CSLA grants a single-seat license for the CresPro or CresLite software so that only a "registered and licensed user" (which is defined in the CSLA to mean the user has registered their license directly with Crescendo) may use the software under a single license. The CSLA does not permit anyone other than a registered and licensed user to use the software and does not grant a blanket license to more than one person working on behalf of Subscriber to use the software under a single license. Subscriber agrees that: (1) Subscriber will only permit registered and licensed users to use, install and access the Crescendo Software; (2) each of Subscriber's registered and licensed users of any Crescendo Software will use prudent measures to guard their username and password, that they will not share their username and password with anyone else, including coworkers and third parties, that they will protect against and immediately report to Crescendo any unauthorized access to the Crescendo Software by anyone other than the registered and licensed user; and (3) Subscriber, and each person licensed through Subscriber, will adhere to the terms of the CSLA.

**12. SPONSORSHIP AND ADVERTISING.** Crescendo permits Subscriber to obtain sponsorship of a GiftLegacy website.

Sponsorship is subject to approval by Crescendo, which may be withheld for any reason. Crescendo will place up to one approved sponsor logo, with a hot link, on the navigation field of Subscriber's GiftLegacy homepage. Any expanded sponsor links, ads, logos and/or text descriptions of the sponsor's services or products may be limited at Crescendo's sole discretion. Crescendo will not place any unapproved third-party advertising on Subscriber's GiftLegacy website. Subscriber shall have the option to add or remove its own marketing such as offering donors downloadable eBrochures and Estate Planning Guides, offering links to GiftLegacy features and offering professional advisors GiftLaw and GiftAttorney services.

**13. WEBSITE CONTENT AND THE CRESMANAGER.**

**A. Donor Stories.** Crescendo will provide Subscriber with a limited number of generic donor stories (with disclaimers about the generic nature of these stories) for placement on the GiftLegacy website. Subscriber shall have the right to replace the generic donor stories with custom donor stories and pictures but shall not have the right to remove or modify the disclaimer related to any generic donor story as long as the same remains on Subscriber's GiftLegacy website. Prior to adding any custom donor story to the GiftLegacy website, Subscriber shall obtain written permission to use the name and/or image of any person featured in such donor story. Crescendo shall not be liable for factual, legal or technical errors, misstatements or misrepresentations contained in any donor story provided by Subscriber.

**B. Subscriber Edits.** Crescendo grants Subscriber the right to utilize the CresManager to customize the GiftLegacy website and to utilize the service. Crescendo shall not be liable for any modifications, additions or deletions made to the

content of the GiftLegacy website through the CresManager, or modification of any GiftLegacy literature or other GiftLegacy media through any other methods made by Subscriber or made by Crescendo at the request of Subscriber.

**C. Streaming Video.** As part of the GiftLegacy service, Subscriber may elect to work with Crescendo to develop a custom "Mission Video" for hosting on the GiftLegacy website. Since there are specific technical requirements for the lighting, background, audio and framing of the video, and since few outside videographers have extensive experience in producing videos for the web, Crescendo cannot accept Subscriber-provided video, except as may be approved by Crescendo, which approval may be withheld at Crescendo's sole discretion. This policy will enhance the technical quality and performance of streaming video on the GiftLegacy site. Subscriber may link to the Mission Video on their primary website and in the GiftLegacy eNewsletters, but cannot upload to or utilize the Mission Video with any third party service. Subscriber's right to use the Mission Video shall terminate concurrently with the expiration of this Agreement.

**D. Disabling Certain Features/Services.** Subscriber may, at its discretion, elect to disable certain features and/or services described in this Agreement by communicating, in writing, to Crescendo that Subscriber desires to disable and/or remove certain features of the GiftLegacy website as part of Subscriber's CresManager account. Services and features that can currently be disabled or removed are limited to the following: (1) specific webpages, such as those related to specific gift models such as a specific "How to Give" page; (2) certain columns from the weekly updated articles such as Personal Planner, Savvy Living, Washington News or Finance News; (3) the CresLite or CresPro cloud-based software (which will remove the related tab from Subscriber-controlled CresManager accounts; however, such software cannot be removed from any top-level administrative account); (4) the Online Wills Planner along with the GiftAttorney sharing features (the GiftAttorney list will still be visible to Subscriber's staff in the CresManager); and (5) the GiftLegacy website in its entirety. Subscriber agrees that the GiftLegacy features and services are part of an integrated package. Therefore, an election to disable or remove any service or feature described above could affect the intended operation of related aspects of the service. Subscriber may wish to speak to a GiftLegacy Coordinator to discuss the implications of one of the elections described above before making an election. Any feature and/or service that has been disabled at Subscriber's request can also be activated or reactivated, added back to the GiftLegacy website or to Subscriber's CresManager account upon request.

**14. USE OF THIRD PARTY SERVICES.** Use of any GiftLegacy-related content in conjunction with any third party services such as email, statistical tracking, software, website framing, video embedding or any other technology including where Subscriber or a third party reproduces or copies GiftLegacy content through links or redirects to or from a third party site, server or other service to the GiftLegacy website or content, or which would be placed on Crescendo servers or otherwise incorporated into the GiftLegacy service is strictly prohibited. If Subscriber is using the services of a third party vendor, the Subscriber agrees that (i) it will not use the GiftLegacy website, eBlasts, eNewsletters, literature or any other Crescendo intellectual property to produce leads for the third party vendor and (ii) GiftLegacy web site links may be directed to the Subscriber main web page. 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 content hosted on Crescendo servers.

**15. ACCESSIBILITY.** Crescendo has the ability to include certain features as part of the GiftLegacy website that can enhance accessibility and utilization of the GiftLegacy website, and its features, by and for persons with certain disabilities. If Subscriber is interested in learning more about these features, please contact Crescendo and ask to speak to the GiftLegacy Coordinator in your region. Crescendo will provide Subscriber's staff with sample websites to allow Subscriber to test these accessibility features to determine if those features will meet Subscriber's specific accessibility standards and, upon request, Crescendo can incorporate those same features in Subscriber's GiftLegacy website.

**16. ADMINISTRATIVE PROVISIONS.** Crescendo is an independent contractor and will comply with federal and California employment and other applicable labor and employment laws (or the laws of any other state if Crescendo has employees based in those states). Certain state regulations require that vendors to state agencies utilize the federal employment eligibility verification program commonly known as EEV or "E-Verify" to verify the work eligibility for all new hires. Crescendo represents that it has continuously used E-Verify with all new hires since March 2, 2011 and will continue to use E-Verify (or any substitute program), consistent with federal law requirements. 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.

## 17. 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 intellectual property; (2) the use of such property by the party to whom any license is granted herein shall, at all times, be subject to the terms of this Agreement; (3) any use not specifically authorized or contemplated herein shall not be authorized except with the prior written permission of the licensing party; (4) any licenses granted herein 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.

**B. License and Use of Crescendo's Intellectual Property.** In addition to the non-exclusive, limited licenses granted by Crescendo to Subscriber under Sections 9 and 10 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 GiftLegacy service level (Pro or Intermediate), including but not limited to intellectual property related to Subscriber's GiftLegacy website design and style elements, content, photos, features and services as well as publishing content, literature and technology provided as part of the service (the "Crescendo Intellectual Property"). The licenses granted under this Agreement by Crescendo are both specific and inclusive. Use of the Crescendo Intellectual Property is allowed by Subscriber only but only if the name, logo and branding on the Crescendo Intellectual Property is consistent with the name of Subscriber as reflected on the LOA (meaning variations or alternatives names of Subscriber, use of names for related parties or third parties is prohibited). The following are prohibited uses of the Crescendo Intellectual Property: (1) placing, allowing or granting permission to place any Crescendo Intellectual Property, or portion thereof, on any website or server other than those controlled by Crescendo (content produced by Crescendo specifically for use in conjunction with Subscriber's social media channels will not be subject to this prohibition provided Subscriber has sole and exclusive control of the social media account where such content is used and the name on the account is that of Subscriber); (2) using any Crescendo Intellectual Property in conjunction with fundraising for any organization other than Subscriber (whether for a related party, third party or if use is generic in fashion) or placing any name or logo of any organization other than Subscriber on any Crescendo Intellectual Property; (3) use after any assignment, sublicense, transfer, or grant of rights by Subscriber to a related party, third party, or other organization or entity whereby Subscriber has purported to give another party the rights to use the Crescendo Intellectual Property; (4) allowing any related party, third party or other organization or entity to be named on or to link to Subscriber's GiftLegacy website, or in any printed materials licensed hereunder, unless approved in writing, in advance by Crescendo, which approval may be withheld in Crescendo's sole discretion. Crescendo may, in its sole discretion, approve requests by Subscriber to include reference to up to one additional separate legal entity on Subscriber's GiftLegacy website but only if: (1) the separate entity is a "disregarded entity" as specifically contemplated in IRS Notice 2012-52, provided the disregarded entity is also listed as such on Subscriber's most recent publicly available IRS Form 990; or (2) if Subscriber is either a foundation that exists to exclusively support a single charity or Subscriber is a charity that is supported by only a single foundation, the Subscriber may include reference to the supporting entity or supported entity but only if one (or both) is named on the most recent publicly available IRS Form 990. Subscriber acknowledges and agrees that: (1) any licenses granted under this Agreement, 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 contained in 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. 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.

**C. License and Use of Subscriber's Intellectual Property.** By entering into this Agreement, Subscriber hereby represents and warrants that: (1) it has the authority to and does hereby grant Crescendo a limited license in, and the right to use, the following: (a) Subscriber's name and logo and all service and trademarks related thereto; (b) any text, graphic, image, content, media or other material provided by Subscriber to Crescendo for such uses as are contemplated in this Agreement; (c) all of the design aspects of Subscriber's primary website; and (d) any other materials provided by Subscriber in the context of this Agreement (collectively "Subscriber's Intellectual Property"); and (2) that no other authorization or approval is necessary to permit Crescendo to use Subscriber's Intellectual Property. The parties agree that Crescendo's use

of Subscriber's Intellectual Property, and the license related thereto, shall: (1) only permit Crescendo to use Subscriber's Intellectual Property for the benefit of Subscriber, whether on the GiftLegacy website or as part of any related GiftLegacy service, and for no other websites or services that Crescendo may provide to any third party; (2) terminate with the termination of this Agreement; (3) require Crescendo, upon written request by Subscriber, to return or destroy physical copies of any Subscriber information in Crescendo's possession that would reasonably be regarded as confidential and to remove any of Subscriber's electronic data from any of Crescendo's live databases. It shall be Subscriber's sole and exclusive responsibility to obtain any necessary legal approvals or grants of license to allow Crescendo to use Subscriber Intellectual Property as contemplated herein. If Crescendo determines that Subscriber does not own or does not have a license to use and cannot grant Crescendo a license to use: (1) any of the design elements of Subscriber's primary website, 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 GiftLegacy website; or (2) any other materials constituting Subscriber Intellectual Property, or is unable to obtain a grant of license from the owner of the design rights, then Subscriber will immediately notify Crescendo by sending an email to [crescendo@cremail.com](mailto:crescendo@cremail.com), in which case, Subscriber agrees and understands that: (1) Subscriber's GiftLegacy website will need to omit many of the unique design aspects of Subscriber's primary website or such other materials as Subscriber does not have a right to use or grant Crescendo the right to use; (2) the time for completion of Subscriber's GiftLegacy website may need to be extended due to the need for additional coding and that any resulting delay is due to no fault of Crescendo; and (3) Crescendo may elect to cancel this Agreement and provide a pro-rated refund to Subscriber for any unused whole month of the cost paid by Subscriber. Subscriber agrees that Subscriber will: (1) only incorporate copyrighted material owned by or licensed to Subscriber in its use of the GiftLegacy system; and (2) will 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. Notice of Intellectual Property Ownership.** Crescendo and Subscriber agree that a disclaimer similar to the following shall be included on all GiftLegacy and GiftLaw websites: *"This site 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 tax or financial situation or with your estate, please consult a qualified professional advisor."* Crescendo and Subscriber also agree that each page of the GiftLegacy website will include the following to protect Crescendo's copyrights related to site content and other intellectual property: *"GiftLegacy Website and Content: Copyright © 2023 (or applicable year) by Crescendo Interactive, Inc. All Rights Reserved."* This copyright statement will be in a font size sufficiently larger than the surrounding text so as to make the statement conspicuous. Any variations to this Copyright are subject to Crescendo's prior approval and may be withheld in Crescendo's sole discretion. No other claim of copyright will be added to the GiftLegacy website without Crescendo's prior approval, which may be withheld for any reason or granted subject to certain conditions.

**E. Participation in CresCoaching.** As a GiftLegacy client, Subscriber's staff will be eligible to participate in many of Crescendo's ongoing educational programs at no cost or at a discounted price. One of those educational programs includes "CresCoaching" a collaborative program led by Crescendo's Education staff with program participants consisting of development, marketing and communications staff from a small group of different charities. As part of the CresCoaching experience, Subscriber's staff will have the ability to share and receive dynamic ideas and success stories as well as collaborate with Crescendo staff and the staff from other participating charities. CresCoaching is a complimentary service, with limited enrollment in each collaborative cohort session. We strive to accommodate Subscriber's preferred schedule, but we reserve the right to reschedule sessions as necessary. Any discussion of generative artificial intelligence ("AI") is an educational service and not an endorsement of any particular AI platform, product or service. Subscriber's use of generative AI to create content, including any electronic or print media, is at Subscriber's own risk. Subscriber is responsible for ensuring all generated content includes suitable disclaimers and its usage complies with all applicable laws and regulations. Crescendo's intellectual property cannot be shared with any generative AI platform, product or service. Per Section 18, Crescendo does not warrant, and hereby disclaims any and all warranties, related to any specific tax, estate planning, legal, financial planning or investment results indicated by any aspect of the services, including but not limited to results from generative AI content or specific marketing outcomes related to CresCoaching participation. At the end of this collaborative effort, each participating organization will be able to use the concepts shared and lessons learned to improve and advance their major, blended and planned giving fundraising efforts. Subscriber's staff's participation in the CresCoaching program shall constitute a grant of rights from Subscriber to Crescendo, and any other then-current or future CresCoaching participating charities, to use the ideas, results, marketing concepts and work product developed, derived from and created during this collaborative process. By participating in CresCoaching, Subscriber will be the beneficiary of a similar grant of permission from other CresCoaching participants.

**F. 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" "Provide and Protect" "GiftAttorney" "GiftCollege" "CresMobile" "Crescendo Pro" "CresPro" "Crescendo Estate" "CresEstate" "Crescendo Lite" "CresLite" "Crescendo Presents" "CresPrint" "Crescendo Plus" "Crescendo Pro-Plus-Presents" "Crescendo Admin" "Crescendo Software" "CresManager" "CresMobile" "CresLeader" "CresSurvey" "CresDonor" and all related logo and graphic designs and any other future trademarks, trade names and service marks owned by Crescendo. Nothing in this Agreement shall be construed to constitute any authorization of use of these trademarks, trade names or service marks.

**G. Remedies in the Event of Breach or Threatened Breach.** Crescendo shall retain the right to exercise any remedy, in law, in equity, or as a matter of self-help to enforce its rights in the event of an actual or threatened breach of the terms contained in this Agreement by Subscriber. Such remedies could include, but are not limited to, temporarily suspending Subscriber's CresManager access to prevent any breach and requesting assurances from Subscriber that any actual or threatened breaches have ceased or been cured prior to restoring CresManager access. In extraordinary circumstances, if any actual breach has occurred but it cannot be cured, following request by Crescendo, Crescendo may elect to immediately terminate Subscriber's service prior to the expiration of the current term, in which case, Crescendo will provide a pro-rated refund to Subscriber equal to the unused portion of the current term (based on any whole months still remaining on said term) less any damages Crescendo determines were incurred by Crescendo as a result of said breach. Such cancellation and refund will not operate to prevent Crescendo from pursuing any of its rights to collect for any additional damages incurred by Crescendo due to such breach.

**18. 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 incorporated, validly existing and presently 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 encourage 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 any promises or changes to these terms or other contract provisions will only be binding on Crescendo if approved, in writing, by someone at Crescendo who is a Vice-President or higher. The service and GiftLegacy website are to be used solely for educational purposes. Crescendo does not warrant, and hereby disclaims any and all warranties, related to any specific tax, estate planning, legal, financial planning or investment results indicated by any aspect of the services. Subscriber acknowledges that Crescendo is not providing Subscriber, or any donor or potential donor of Subscriber, with any professional tax, estate planning, legal, financial planning or investment advice. Any person who is a donor or prospective donor to Subscriber must obtain their own qualified professional tax, estate planning, legal, financial planning or investment counsel. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, CRESCENDO DOES NOT MAKE ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES FOR MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

**19. 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. 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 IN SUCH CASES AND SHALL INSTEAD APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## **20. MERGER & SURVIVAL.**

**A. Merger.** The terms and services described or referenced herein, together with any applicable click-wrap agreement(s) contained in any 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 GiftLegacy Letter of Agreement, the Terms and Services and other agreements referenced herein and Crescendo hereby objects, in advance, to any different or additional terms contained in any subsequent writing, including any Purchase Orders, which Subscriber may deliver to Crescendo pursuant to its operations in relation to this Agreement. Subscriber acknowledges and agrees that: (1) no additional or other terms that Subscriber subsequently submits to Crescendo in relation to this contract (or any contract related to any Crescendo service) shall be binding on Crescendo; and (2) that Subscriber will, if requested by Crescendo, remove any and all reference to any other or additional terms contained in or on any communication or document submitted by Subscriber to Crescendo and will also resubmit a "clean" copy of the same to Crescendo (removing such additional or different terms) so that the same meets the standards and/or request submitted

by Crescendo to Subscriber. 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 6G, 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 and specifically include the following: Section 20 (related to Survival of Terms including the prohibition of additional terms as binding on the parties as outlined in Section 20A); Section 7 (related to Data Reports and Confidential Information); Section 8 (related to Privacy); Sections 9 and 10 (related to requirement of a pre-paid license to use any aspect of the service); Section 16 (related to Administrative Provisions); Section 17 (related to Intellectual Property); and Section 19 (related to Limitation of Damages).

**21. ADDENDUM.** Notwithstanding the online nature of this Agreement or the prohibition contained in Section 20 to the contrary, confirmation of the terms contained herein in the form of a click-wrap agreement will not supersede any provisions specifically negotiated by the parties which have been included in a separate addendum signed by the parties. The terms of any such addendum, if existing as of the Commencement Date, are hereby incorporated into the Term of Service.

**22. DELETION OF DATA FOLLOWING LICENSE TERMINATION.** Notwithstanding the fact Subscriber owns Subscriber Data, once this License expires, is terminated or lapses without renewal, Crescendo may remove Subscriber Data from its live databases in accordance with Crescendo's regular data retention practices and, provided that such data is securely cleaned, degaussed or destroyed from any electronic media prior to disposal, Crescendo may dispose of such data without the need to provide further notice to Subscriber.

**23. CHANGES 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 the same may otherwise be changed in accordance with the terms contained herein.

**24. CHANGES IN PRICING.** Crescendo reserves the right to adjust the pricing of any of the services or features contained in this agreement, without notice at any time prior to acceptance of such offer by any potential Subscriber. After acceptance of these terms, renewal of services will be subject to the pricing at the then-current rate for services offered by Crescendo with notice provided approximately thirty (30) days prior to Subscriber's Renewal Date.

**== END OF AGREEMENT ==**

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

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