This **MESSAGING SERVICES END USER AGREEMENT** (this *"End User Agreement"*) is entered into by and between Flexential Corp., a Delaware corporation formerly known as Peak 10, Inc. or one of its affiliated entities, including without limitation Flexential Colorado Corp., a Colorado corporation formerly known as ViaWest, Inc. (*"Flexential"*) and the entity receiving the Messaging Services (*"Customer"* or *"you"*). This End User Agreement is made a part of that certain Master Services Agreement entered into by and between Flexential and Customer (the *"MSA"*). This End User Agreement includes Attachment 1.

1. **Definitions.** Capitalized terms not defined herein shall have the meaning set forth in the MSA.

2. **Messaging Services.** *"Messaging Services"* provided under this End User Agreement means, individually and collectively, those of the following services powered by BAE (formerly known as SilverSky) that you order under this agreement: (i) hosted Microsoft® Exchange Messaging Services, (ii) electronic communication archiving services (including monitoring services if applicable and (iii) auxiliary electronic messaging services described in the applicable Exhibit A or Change Order. Flexential will provide end users authorized by Customer to receive Messaging Services (each a "**User**") with individual email boxes (each a "**Seat**") on the domain name(s) Customer specifies, provided that Customer owns the domain name(s). Messaging Services may also be known as Managed Email. As applicable, Flexential will also provide electronic communication archiving services for Users that Customer designates. Flexential will provision Customer-specified domain names and Seats on or before the date Flexential first makes the Messaging Services available to Customer ("**Launch Date**"). Additional domain names and Seats may be established thereafter. The Messaging Services are provided on shared servers, unless Flexential agrees otherwise in writing.

3. **Third Party.** Customer acknowledges that the Messaging Services are provided by a third party, BAE Systems Applied Intelligence US Corp. (*"BAE"*), and Flexential and Customer's use thereof is subject to the terms of this End User Agreement, including Attachment 1, which Flexential does not have the authority to vary, alter or amend.

4. **Migration.** In the event the relationship between Flexential and BAE ends,(a) Customer may terminate its use of the Messaging Services, or (b) Customer, Flexential and BAE will collaborate on a transition plan to continue provision of the Messaging Services uninterrupted.

5. **Survival**. Sections 8, 11, 12, 13, 14, 15 will survive the termination or expiration of this End User Agreement.

6. **Administrators.** Prior to the Launch Date, Customer will appoint up to 3 administrators, each of whom will have the power to act as Customer's agent, with the authority to make decisions, representations, and give notices on Customer's behalf ("**Administrators**"). Administrators' authority includes, but is not limited to (i) controlling the creation and deletion of Seats and domain names; (ii) managing changes to Seat information (such as changes to User name or password); (iii) serving as the authorized technical contact for the Messaging Services; (iv) setting business rules/policies and/or filters on the Messaging Services that may filter and/or terminate emails sent to or by Users without delivering them; (v) requesting the restoration or disclosure of content by submitting an Authorization for Disclosure of Information form to Flexential (such form to be provided by Flexential); and (vi) monitoring complaints against Users. At least one (1) Administrator must attend a training session on the Messaging Services, which will be provided at no charge. Customer may replace Administrators at any time upon notice to Flexential.

7. **Technical Support.** Customer will direct all technical support inquiries to Flexential. Flexential will have responsibility for responding to inquiries from Administrators regarding Messaging Services. Flexential will respond to inquiries from Administrators on a 24x7 basis; provided that inquiries (i) must be submitted via toll-free telephone or email in the English language, and (ii) such inquiries will be responded to in English.

8. **Cancellation Fee.** In the event that Customer terminates the Messaging Services, the MSA or this End User Agreement other than as explicitly stated herein or in the MSA, Customer agrees to pay Flexential an amount equal to one hundred percent (100%) of the monthly recurring charges for all Messaging Services billed or to be billed to Customer as set forth in the applicable Exhibit A or Change Order, for the remaining term of the MSA. Such amount will be billed to Customer in one lump sum.

9. **Storage Allocation.** Administrators may distribute the base storage and additional storage purchased among Customer's public folders and individual Seats in their sole discretion using the administrative functions of the Messaging Services; provided that Flexential will invoice Customer for each Seat at the applicable base storage allocation indicated in the applicable Exhibit A or Change Order. When Users approach or have reached the base storage allocation or the storage capacity designated by the Administrators, Users will be automatically alerted that their outbound emails from the Seat will be prohibited and/or their inbound emails be undelivered unless their storage capacity is increased by the reduction of then stored messages or an increase in storage allocated to them.

10. **Business Continuity Archiving Services:**

   1. DEVICES. In some instances, the archiving Messaging Services may require installation of software on Customer hardware. As applicable in those instances, Flexential will provide the Messaging Services with respect to the computer systems and other devices you designate to us (each, a "**Device**").   You and your Users will be responsible at your and their own expense for all hardware, desktop software, wireless devices and Internet connections that are required to reach the servers used to provide archiving Messaging Services, subject to our minimum recommended specifications, unless otherwise set forth herein. Your Administrator(s) will perform certain administrative functions related to Devices, including (i) controlling the application and termination of the Messaging Services with respect to Devices; and (ii) managing changes to Devices that affect the Messaging Services;

   2. RETENTION UPON TERMINATION. Upon the effective date of termination of this End User Agreement or the archiving Messaging Services for any reason, the Messaging Service will cease archiving your data. However, your archived data will be stored for a period of ninety (90) days ("**Grace Period**") following termination, during which you may access and extract your archived data. If you prefer, and provided your account is in good standing, you may request an export of your data for delivery to you which will be performed after receipt of your written request and execution of a Change Order, statement of work or other agreement stating the fees and terms of the data export and delivery. You must notify us in writing during the Grace Period of your request for an export. If Flexential does not receive a written export request from you no later than 10 days' prior to the end of the Grace Period, Flexential or BAE may, without liability to Customer or any third party, permanently dispose of Customer's archived data remaining on the BAE system at the end of the Grace Period. Such disposal will be performed in accordance with applicable industry standards for destruction of data. A certificate of destruction will be issued upon your written request.

11. **Warranties and Disclaimers. EXCEPT AS MAY BE SET FORTH IN THIS END USER AGREEMENT, THE MESSAGING SERVICES ARE PROVIDED "AS IS." FLEXENTIAL AND BAE DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, ACCURACY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE**. Except as set forth herein, neither Flexential nor BAE guarantee continuous, uninterrupted, virus-free or secure Messaging Services, and neither Flexential nor BAE are liable if Customer or Users are unable to access the Messaging Services at any specific time.   Neither Flexential nor BAE guarantee that either will be able to replace any Customer information, content or other data that may be lost, damaged or stolen resulting from use of the Messaging Services.

12. **Limitation of Liability.** With respect to the Messaging Services, **NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS END USER AGREEMENT. FLEXENTIAL'S LIABILITY UNDER THIS END USER AGREEMENT TO CUSTOMER, USERS AND ALL THIRD PARTIES, IS IN EACH CASE LIMITED TO THE FEES PAID BY CUSTOMER TO FLEXENTIAL FOR THE MESSAGING SERVICES IN THE TWELVE (12) MONTHS PRIOR TO THE ACTION GIVING RISE TO LIABILITY.**

13. **Indemnification.** Customer will indemnify Flexential against all loss, cost, damage and expense that Flexential may incur as a result of claims in any form by third parties arising from: (i) Users use of Seats; (ii) Customer's website(s); (iii) intellectual property infringement claims related to the domain names(s) or content; and (iv) the collection of amounts owed by Customer under this End User Agreement; (v) unauthorized installation, use, access, copying, reproduction, and/or distribution of any portion of the Microsoft Software Products by Users; and (vi) acts and omissions of Customer Administrators.

14. **Prohibition of Reverse Engineering, Decompilation and Disassembly.** Customer may not (i) except to the extent that applicable law requires Flexential to give Customer permission to do so, directly or indirectly, reverse engineer, decompile or disassemble any software made available to Customer in connection with the Messaging Service; (ii) copy rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to such software; or (iii) remove any proprietary notices or labels from such software.

15. **Third Party Beneficiary.** BAE is a third party beneficiary of this End User Agreement. BAE will have the right to enforce Customer obligations under this End User Agreement, and the limitations and restrictions applicable to Customer under this End User Agreement. Customer's indemnification obligations under Section 13 of this End User Agreement will also apply to BAE, and the disclaimers set forth in Section 11 and the limitations of liability set forth Section 12 will apply to all claims arising under or relating to this End User Agreement.

16. **Audit.** From the effective date of the Messaging Services until 2 years from the date of termination or expiration of the MSA or the date on which Flexential ceases to provide the Messaging Services, Customer will maintain clear and accurate records containing the data reasonably required to verify customer's compliance with the terms of this End User Agreement. Flexential or BAE may conduct a reasonable audit (*"Audit"*) of the relevant portions of Customer's books and records that relate to Customer's compliance hereunder. An Audit may be conducted after twenty (20) days' notice setting forth a time for the Audit, which will be within normal business hours and will be conducted in a manner that does not unreasonably interfere with

Customer's normal business operations. The Audit will be conducted at Flexential's expense unless the results of such Audit establish that Customer has materially failed to comply with the terms of this End User Agreement, in which case Customer will promptly pay the reasonable and documented expenses of such Audit. If the results of an Audit indicate that additional fees are due to Flexential, Customer will immediately make such payment. If the results of an Audit indicate that there has been an overpayment to us, you will receive an immediate credit in the amount of such overpayment.

17. **Additional Terms and Conditions.** In addition to terms and conditions set forth in this End User Agreement, Customer agrees to be bound by the User Terms and Conditions posted at https://www.BAE.com/tandc Customer will ensure that each User agrees to be bound by the User Terms and Conditions before being permitted to use a Seat. Customer will also ensure that Users comply with the User Terms and Conditions. The User Terms and Conditions and the manner in which such terms may be accessed may be modified or changed upon notice from Flexential. Without limiting any other remedies, Flexential may suspend or terminate a User's Seat without notice if the User breaches the User Terms and Conditions or the Microsoft Terms.

18. **Attachments.** Customer agrees to be bound by, and will ensure that each User agrees to be bound by the Terms and Conditions Regarding Use of Microsoft Software ("**Microsoft Terms**") set forth in Attachment 1.

19. **Conflict**. Except as otherwise provided herein, in the event any term or condition of this End User Agreement shall conflict with or be inconsistent with any term of the MSA or any other amendment or exhibit to the MSA, the terms of this End User Agreement will control. All other terms and conditions of the MSA and any other amendment or exhibit to the MSA shall remain in full force and effect.

Microsoft Terms and Conditions

Customer will comply with the following terms. If Flexential believes, in good faith, that Customer or any Users have breached or are not complying with the Microsoft Terms, Customer will cooperate in good faith with Flexential in investigating and remedying such noncompliance.   Customer authorizes Flexential to provide such information about the use of the Messaging Service by Customer and Users as Microsoft requires for the purpose of assessing compliance with terms and conditions applicable to the Microsoft products used in the Services or made available through the use of the Services.   For purposes of this Attachment 1, references to Flexential include BAE.

1. This document concerns your use of Microsoft software, which includes computer software provided to you by Flexential as described below, and may include associated media, printed materials, and "online" or electronic documentation (individually and collectively "**SOFTWARE PRODUCTS**"). **FLEXENTIAL does not own the SOFTWARE PRODUCTS and the use thereof is subject to certain rights and limitations of which FLEXENTIAL needs to inform you. Your right to use the SOFTWARE PRODUCTS is subject to your agreement with FLEXENTIAL and/or FLEXENTIAL, and your understanding of, compliance with and consent to the following terms and conditions, which FLEXENTIAL does not have authority to vary, alter or amend.**

2. **DEFINITIONS**.
    i. "**Client Software**" means software that allows a Device to access or utilize the services or functionality provided by the Server Software.
    ii. "**Device**" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone," or other electronic device.
    iii. "**Server Software**" means software that provides services or functionality on a computer acting as a server.
    iv. "**Redistribution Software**" means the software described in Paragraph 4 ("Use of Redistribution Software") below.

3. **OWNERSHIP OF SOFTWARE PRODUCTS**. The SOFTWARE PRODUCTS are licensed to FLEXENTIAL from an affiliate of the Microsoft Corporation ("**Microsoft**"). All title and intellectual property rights in and to the SOFTWARE PRODUCTS (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the SOFTWARE PRODUCTS) are owned by Microsoft or its suppliers. The SOFTWARE PRODUCTS are protected by copyright laws and international treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the SOFTWARE PRODUCTS does not transfer any ownership of the SOFTWARE PRODUCTS or any intellectual property rights to you.

4. **USE OF CLIENT SOFTWARE**. You may use the Client Software installed on your Devices by FLEXENTIAL only in accordance with the instructions, and only in connection with the services, provided to you by FLEXENTIAL. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during your use of the Client Software.

5. **USE OF REDISTRIBUTION SOFTWARE**. In connection with the services provided to you by FLEXENTIAL, you may have access to certain "sample," "redistributable" and/or software development ("**SDK**") software code and tools (individually and collectively "**Redistribution Software**").   **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS ("SPUR") APPLICABLE TO FLEXENTIAL, WHICH TERMS MUST BE PROVIDED TO YOU BY FLEXENTIAL.** Microsoft does not permit you to use any redistribution software unless you expressly agree to and comply with such additional terms, as provided to you by FLEXENTIAL.

6. **COPIES**. You may not make any copies of the SOFTWARE PRODUCTS; provided, however, that you may (a) make one (1) copy of Client Software on your Device as expressly authorized by FLEXENTIAL; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with FLEXENTIAL, upon notice from FLEXENTIAL or upon transfer of your Device to another person or entity, whichever first occurs. You may not copy any printed materials accompanying the SOFTWARE PRODUCTS.

7. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY**. You may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCTS, except and only to the extent that applicable law, notwithstanding this limitation expressly permits such activity.

8. **NO RENTAL**. You may not rent, lease, or lend, pledge, or directly or indirectly transfer or distribute the SOFTWARE PRODUCTS to any third party, and you may not permit any third party to have access to and/or use the functionality of the SOFTWARE PRODUCTS except for the sole purpose of accessing the functionality of the SOFTWARE PRODUCTS in the form of software services in accordance with the terms of this document and any agreement between you and FLEXENTIAL.

9. **TERMINATION**. Without prejudice to any other rights, FLEXENTIAL may terminate your rights to use the SOFTWARE PRODUCTS if you fail to comply with these licensing terms. In the event of termination or cancellation of your agreement with FLEXENTIAL, or FLEXENTIAL's agreement with Microsoft, you must stop using and/or accessing the SOFTWARE PRODUCTS, and destroy all copies of the SOFTWARE PRODUCTS and all of its component parts.

10. **NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT**. ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED BY FLEXENTIAL AND <u>NOT</u> BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES. You and your Users disclaim, to the extent permitted by applicable law, all warranties by Microsoft and any liability by Microsoft for any damages, whether direct, indirect or consequential, arising from your or your Users' use of the Services.

11. **PRODUCT SUPPORT**. Product support for the SOFTWARE PRODUCTS is provided to you by FLEXENTIAL and is <u>not</u> provided by Microsoft or its affiliates or subsidiaries.

12. **NOT FAULT TOLERANT**. THE SOFTWARE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

13. **EXPORT RESTRICTIONS**. The SOFTWARE PRODUCTS are of U.S. origin for purposes of U.S. export laws. You agree to comply with all applicable international and national laws that apply to the SOFTWARE PRODUCTS, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see http://www.microsoft.com/exporting/.

14. **LIABILITY FOR BREACH**. In addition to any liability you may have to FLEXENTIAL, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

15. **PROPRIETARY RIGHTS NOTICES.** You must not remove, modify or obscure any Microsoft copyright, trademark or other proprietary rights notices that are accessible to you in copies of the Software Products or through your use of the Services, and you must ensure that your Users do not do so.