



G-Cloud 14

Knowledge Capture Standard Terms & Conditions

For the provision by enChoice UK Limited of Professional Services
Managed and Hosted Services

Version 1.0

In the event of a conflict, an Attachment prevails over this Knowledge Capture Terms and Conditions and a Service Definition Document prevails over both the Knowledge Capture Terms and Conditions and any Attachment. Any conflicting terms in an Attachment or SDD that override the terms of this Knowledge Capture Terms and Conditions will be identified in the Service Definition Document or Attachment accepted by the Customer and only apply to the specific transaction.

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1. Definitions and Interpretations

The following words and expressions have the following meaning, unless the context requires otherwise

a. “Applicable Laws”	<ul style="list-style-type: none"> Means any: <ul style="list-style-type: none"> a) law including any statute, statutory instrument, byelaw, order, regulation, directive, treaty, decree, decision (as referred to in Article 288 of the Treaty on the Functioning of the European Union); b) legally binding rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or(c) legally binding industry code of conduct or guideline in force from time to time which relates to the Agreement and/or any products, goods, and services provided in connection with the Agreement and/or the activities which are comprised in all or some of the goods and/ or services or the use or application of the output from the goods and/ or services
b. “Authorised Users”	<ul style="list-style-type: none"> Any person provided access to any of the Knowledge Capture environments, or the content held within, by the Client or the Clients Customers.
c. “Authority”	<ul style="list-style-type: none"> Means any government, agency, regulator or prosecutor
d. “Business Day”	<ul style="list-style-type: none"> any day other than a Saturday or Sunday or a public or bank holiday in the UK;
e. “CFA”	<ul style="list-style-type: none"> means the Criminal Finances Act 2017
f. “CFA Offense”	<ul style="list-style-type: none"> Means an offence under section 45 or section 46 of the CFA
g. “Control”	<ul style="list-style-type: none"> means in relation to a person, the power (whether direct or indirect) to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise; and “Controls” and “Controlled” will be construed accordingly
h. “Customer”	<ul style="list-style-type: none"> means a party authorized to use the Knowledge Capture services
i. “Facilitation of Tax Evasion Offence”	<ul style="list-style-type: none"> Means a UK tax evasion facilitation offence or a foreign tax evasion facilitation offence, as those terms are defined in the CFA
j. “Group”	<ul style="list-style-type: none"> means together a person and any other person that Controls, is Controlled by or is under common Control with the first person from time to time
k. “Intellectual Property Rights”	<ul style="list-style-type: none"> means all intellectual and industrial property rights (including patents, know how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights and unregistered trademarks, rights to prevent passing off or unfair competition, copyright, database rights, domain names, topography rights and any other rights in any invention, discovery or process) in the United Kingdom and all other countries in the world and together with all renewals and extensions thereof
l. “UK Business Hours”	<ul style="list-style-type: none"> shall mean 09:00 – 17:00, Monday through Friday, excluding public holidays in England as outlined on web page www.calendar-uk.co.uk/holidays

m. “SDD”	<ul style="list-style-type: none">▪ Service Definition Documents (SDDs) provide the specifics of transactions, such as charges and a description of and information about the enChoice Products and Non-enChoice Products. Examples of SDDs include statements of work, service descriptions, ordering documents and invoices. There may be more than one SDD applicable to a transaction.
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2. Knowledge Capture Services

a. Knowledge Capture Services	<ul style="list-style-type: none"> Knowledge Capture Services are enChoice offerings that enChoice makes available via a network, such as software as a service, platform as a service, infrastructure as a service, or other network delivered services. Knowledge Capture Services can be deployed within the enChoice Azure Subscription or client hosted. Each enChoice Service, location and hosting model will be described in an SDD's. Knowledge Capture Services are designed to be available 24/7, subject to maintenance. enChoice will provide advance notice of scheduled maintenance. Technical support availability and service level commitments, are specified in the SDD.
b. Non-enChoice Products	<ul style="list-style-type: none"> enChoice may offer Non-enChoice Product, or an enChoice Product may enable access to a Non-enChoice Product. An SDD will identify any applicable third-party terms that use of Non-enChoice Products. Linking to or use of Non-enChoice Products constitutes agreement with such terms. Third-party terms and privacy practices govern use of a Non-enChoice Service or other Service, including Content customer may provide, grant access to or input to. enChoice will invoice the Customer for charges due and submit order details to the third-party provider for the enablement and delivery of the Non-enChoice Product. Access to ongoing Non-enChoice Products may be discontinued at any time if the third party discontinues or enChoice no longer makes available such Non-enChoice Products.
c. Order Acceptance	<ul style="list-style-type: none"> The Customer accepts the applicable Attachment or SDD for Services by ordering, enrolling, using, or making a payment. enChoice accepts the Customer order by confirming the order or enabling access.
d. What enChoice Provides	<ul style="list-style-type: none"> enChoice provides the facilities, personnel, equipment, software, and other resources necessary for enChoice to provide Knowledge Capture Services. enChoice provides generally available user guides and documentation to support the Customers use of Knowledge Capture Services.
e. Enabling Software	<ul style="list-style-type: none"> Enabling Software is software that the Customer downloads to their systems that facilitates the use of a Service and will be identified in an SDD. Enabling Software is not part of the Service and the Customer may use Enabling Software only in connection with use of the Service in accordance with any licensing terms specified in an SDD. The licensing terms will specify applicable warranties, if any. Otherwise, Enabling Software is provided as is, without warranties of any kind.
f. On-Premise only	<ul style="list-style-type: none"> The Customer will provide hardware, software and connectivity to access and use the Knowledge Capture Services, including full hosting service where Knowledge Capture is deployed within the Customers managed hosting, and any required specific URL addresses and associated certificates.

g. Right to Use & The Customers Responsibilities	<ul style="list-style-type: none">▪ The Customers Authorised Users may access Knowledge Capture only to the extent of authorisations the Customer acquires.▪ The Customer is responsible for the use of Knowledge Capture Services by any user who accesses the Knowledge Capture Services with The Customers account credentials.
h. Acceptable Use Terms	<ul style="list-style-type: none">▪ Knowledge Capture Services may not be used to undertake any activity or host Content that:<ul style="list-style-type: none">a) is unlawful, fraudulent, harmful, malicious, obscene, or offensive;b) threatens or violates the rights of others;c) disrupts or gains (or intends to disrupt or gain) unauthorised access to data, services, networks, or computing environments within or external to enChoice;d) sends unsolicited, abusive, or deceptive messages of any type; ore) distributes any form of malware.▪ The Customer may not:<ul style="list-style-type: none">a) reverse engineer any portion of a Knowledge Capture Service;b) assign or resell direct access to a Knowledge Capture Service to a third party outside the Client Group, except as permitted under this Agreement; orc) combine a Knowledge Capture Service with any other branded solution that the Customer markets to its end user customers unless otherwise agreed by enChoice in writing.
i. Preview Knowledge Capture Services	<ul style="list-style-type: none">▪ Knowledge Capture Services or features of Knowledge Capture are considered "preview" when enChoice makes such services or features available at no charge, with limited or pre-release functionality, or for a limited time to try available functionality. Examples of preview Knowledge Capture Services include beta, trial, no-charge, or preview-designated Knowledge Capture Services.▪ Any preview Knowledge Capture Service is excluded from available service level agreements and may not be supported.▪ enChoice may change or discontinue a preview Knowledge Capture Service at any time and without notice.▪ enChoice is not obligated to release preview Knowledge Capture Services or make an equivalent service generally available.

3. Content, Confidential Information and Data Protection

<p>a. Content Client Provides</p>	<ul style="list-style-type: none"> Content consists of all data, software, and information that the Customer or its Authorised Users provides, authorises access to, or inputs to Knowledge Capture Services or information or data the Customer may provide, make available or grant access to, in connection with enChoice providing other Services. The Customer grants the rights and permissions to enChoice, its affiliates, and contractors of either, to use, provide, store, and otherwise process Content solely for the purpose of providing the Knowledge Capture Services or other Services. Use of the Knowledge Capture Services or other Services will not affect the Customers ownership or license rights in Content.
<p>b. Use of Content & Confidential Information</p>	<ul style="list-style-type: none"> enChoice, its affiliates, and contractors of either, will access and use the Content solely for the purpose of providing and managing the applicable Knowledge Capture Service or other Services. enChoice will treat Content as confidential by only disclosing to enChoice employees and contractors to the extent necessary to provide the Knowledge Capture Services or perform other Services.
<p>c. Customer Responsibilities</p>	<ul style="list-style-type: none"> The Customer is responsible for obtaining all necessary rights and permissions to permit processing of Content in the Knowledge Capture Services or to provide other Services. The Customer will make disclosures and obtain consent required by law before the Customer provides, authorises access, or inputs individuals' information, including personal or other regulated data, for processing in the Knowledge Capture Services or use by enChoice in providing other Services. If any Content could be subject to governmental regulation or may require security measures beyond those specified by enChoice for the Knowledge Capture Services or other Services, the Customer will not provide, allow access to, or input the Content for processing in the Knowledge Capture Services or provide or allow access of Content to enChoice to provide Services unless specifically permitted in the applicable SDD or unless enChoice has first agreed in writing to implement additional security and other measures. For on-premise environment only the Customer is responsible for adequate back-up of Content on the Customer managed systems prior to providing or allowing access to enChoice to provide Services.
<p>d. Data Security</p>	<ul style="list-style-type: none"> enChoice Data Security applies for generally available standard Knowledge Capture Services and other Services. Specific security features and functions of an enChoice Service or other Services will be described in the applicable Attachment or SDD. The Customer is responsible for assessing the suitability of the Services for the Content and the Customer's intended use or the use of Content with other Services enChoice will provide. The Customer acknowledges that the use of Services or other Services meets the Customer's requirements and processing instructions required to comply with applicable laws.
<p>e. Removal of Content</p>	<ul style="list-style-type: none"> For Knowledge Capture Services with self-managed features, the Customer can remove Content at any time. Otherwise, enChoice will return or remove Content from enChoice computing resources upon the expiration or cancellation of the Knowledge Capture Services, other Services, or earlier upon the Customers request. enChoice may charge for certain activities performed at the Customers request (such as delivering

	<p>Content in a specific format).</p>
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- enChoice does not archive Content; however, some Content may remain in the Knowledge Capture Services backup files until expiration of such files as governed by enChoice's backup retention practices.

4. Changes and Withdrawal of Services

a. enChoice Right to Change Services	<ul style="list-style-type: none"> ▪ At any time and at enChoice's discretion, enChoice may change: <ul style="list-style-type: none"> a) the Knowledge Capture Services, including the corresponding published descriptions; and b) published data security and privacy documentation for the Knowledge Capture Services. ▪ The intent of any change to the above will be to: <ul style="list-style-type: none"> a) make available additional features and functionality. b) improve and clarify existing commitments; or c) maintain alignment to current adopted operational and security standards or applicable laws. ▪ Changes will not degrade the security or data protection features or functionality of the Knowledge Capture Services. ▪ Changes to the published descriptions or published other documents as specified above, will be effective when published or on the specified effective date. ▪ Any changes that do not meet conditions specified above will only take effect, and the Customer accepts, upon: <ul style="list-style-type: none"> a) a new order; b) the term renewal date for the Knowledge Capture Services that automatically renew; or c) notification from enChoice of the change effective date for ongoing services that do not have a specified term.
b. Withdrawal of a Service	<ul style="list-style-type: none"> ▪ enChoice will continue to provide withdrawn Knowledge Capture Service for the remainder of the Customers' unexpired term or work with the Customer to migrate to another generally available enChoice offering. ▪ Non-enChoice Products may be discontinued at any time if the third party discontinues or enChoice no longer makes available such services.

5. Warranties

a. enChoice Warrants	<ul style="list-style-type: none">▪ enChoice warrants that it provides Knowledge Capture Services or enChoice Services using commercially reasonable care and skill and as described in the applicable SDD.▪ These warranties end when the Knowledge Capture Services or other enChoice Services end.▪ These warranties are the exclusive warranties from enChoice and replace all other warranties, including the implied warranties or conditions of satisfactory quality, merchantability, non-infringement, and fitness for a particular purpose.
b. Warranty & Limitations	<ul style="list-style-type: none">▪ enChoice does not warrant uninterrupted or error-free operation of the Knowledge Capture Services.▪ enChoice does not warrant it will correct all defects.▪ While enChoice endeavors to provide security measures to keep all data secure, enChoice does not warrant enChoice can prevent all third-party disruptions or unauthorised third-party access.▪ enChoice warranties will not apply if there has been misuse, modification, damage not caused by enChoice, or failure to comply with written instructions provided by enChoice.▪ enChoice makes preview Knowledge Capture Services or Non-enChoice Products under the Agreement as-is, without warranties of any kind. Third parties may provide their own warranties to the Customer for Non-enChoice Services.

6. Charges, Taxes, and Payment

a. Charges	<ul style="list-style-type: none"> ▪ The Customer's right to use an enChoice Product or Non-enChoice Product is contingent on the Customer paying applicable charges as specified in an SDD or applicable agreement under which the Customer acquired the entitlements. The Customer is responsible to acquire additional entitlements in advance of any increase of its use. ▪ The Customer agrees to pay all applicable charges specified in a SDD and charges for use in excess of authorisations. ▪ Charges are exclusive of any customs or other duty, tax, and similar levies imposed by any authority resulting from the Customer's acquisitions under the Agreement and will be invoiced in addition to such charges. ▪ Amounts are due upon receipt of the invoice from enChoice and payable within 60 days of the invoice date to an account specified by enChoice and late payment fees may apply. ▪ Prepaid enChoice Products or Non-enChoice Products must be used within the applicable period. ▪ enChoice does not give credits or refunds for any prepaid, one-time charges, or other charges already due or paid, except as may be specified in an Agreement.
b. Invoicing	<ul style="list-style-type: none"> ▪ enChoice will invoice: <ul style="list-style-type: none"> a) recurring charges at the beginning of the selected billing frequency term; b) overage and usage charges in arrears; and c) one-time charges upon enChoice's acceptance of an order.

7. Liability and Intellectual Property Protection

a. Limitation of Liability	<ul style="list-style-type: none"> a) Neither Party shall be liable to the other Party for any indirect or, consequential, damages arising out of or relating to the Services or resulting from this Agreement or any SDD, even if such Party has been advised of the possibility of such damages. b) Subject to section 8(a)(c) below, the aggregate liability of each Party; <ul style="list-style-type: none"> a) under this Agreement shall not exceed the amounts paid or payable under this Agreement by the Customer; or b) under an SDD shall not exceed the amounts paid or payable under the SDD by the Customer. c) Nothing in this agreement will exclude or limit enChoice's liability for: <ul style="list-style-type: none"> a) the Intellectual Property indemnity at clause 7(c) of this Agreement b) any breach of clause 3(b) of this Agreement (Confidential Information) c) any breach of clause 10(c) of this Agreement (Business Conduct); or d) matters for which liability cannot legally be excluded or capped.
b. Claims Not Covered	<ul style="list-style-type: none"> ▪ enChoice has no responsibility for claims based on: <ul style="list-style-type: none"> a) Non-enChoice Products; b) items not provided by enChoice; or c) any violation of law or third-party rights caused by Content, or any Customer materials, designs, or specifications.
c. Intellectual Property and Content	<ul style="list-style-type: none"> ▪ The Customer agrees that enChoice retains all proprietary right, title and interest, including copyright and all other Intellectual Property Rights, in and to the Knowledge Capture Services, Knowledge Capture software and source code. This clause does not relate to User Content, which remains the sole property of the Customer, or its Group Companies. ▪ enChoice grants to the Customer and its Group Companies the royalty free, worldwide license and right to use, within the limits of the contract. Except for the foregoing license grant, enChoice or its licensors retain all rights in and to all enChoice technology.

8. Term and Termination

<p>a. Termination of the Knowledge Capture Service</p>	<ul style="list-style-type: none"> ▪ This Agreement commences on the Effective Date and will continue until automatic expiry of the SDD's under this Agreement or unless terminated by either party in accordance with the terms of this Agreement (whichever is earlier) (the "Term"). The Customer shall be entitled at the end of the Term of each SDD to extend the Term of the SDD upon notification to enChoice, for a period to be determined by the Customer (the "Renewal Term"), subject to enChoice's agreement. ▪ Either Party may terminate this Agreement or any SDD upon written notice to the other Party if such other Party becomes insolvent, admits in writing its inability to pay its debts when due, files for bankruptcy, is the subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned and the same is not stayed or dismissed within sixty (60) days of the filing, appointment, commencement or order thereof. ▪ The Customer may terminate: <ul style="list-style-type: none"> a) upon immediate notice if enChoice commits a material breach of this Agreement and, if the breach is capable of remedy, failing to remedy the breach within 60 (sixty) days starting on the day after receipt of notice from the Customer giving details of the breach and requiring enChoice to remedy the breach. b) Upon immediate notice if enChoice is in breach of any of the following obligations: <ul style="list-style-type: none"> ▪ a) Confidential Information (clause 3(b)); ▪ c) Business Conduct (clause 10(c)); or ▪ d) any information security standards notified by the Customer as part of its due diligence requirements from time to time (clause 10(a)). ▪ enChoice may terminate: <ul style="list-style-type: none"> a) if the Customer is in breach of any applicable license agreements in respect of an SDD and fails to rectify the breach within 60 (sixty) days of receiving notice from enChoice that the Customer is alleged to have breached the relevant agreement, providing the necessary detail to the Customer in order to identify the alleged breach; b) the Customer fails to allow enChoice to install monitoring software in respect of a new SDD within 30 (thirty) days of requesting the installation of such, provided the software is only used to monitor or control the number of services being utilised. ▪ On termination or expiry of this Agreement: <ul style="list-style-type: none"> a) all rights and obligations of the parties under this Agreement will automatically terminate except for rights of action accruing prior to termination; b) all rights and obligations of the parties each SDD will automatically terminate except where the Customer has notified enChoice in writing that the SDDs, or any SDD is to continue until it expires or is terminated; and c) enChoice will provide transition services as necessary to ensure a smooth handover of the services at its cost. ▪ On termination or expiry of an SDD: <ul style="list-style-type: none"> a) all rights and obligations of the parties under the SDD will automatically terminate except for rights of action accruing prior to termination; b) all amounts due under the SDD for Services performed and Deliverables provided shall
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	<p>continue to be due on their due dates;</p> <p>c) enChoice will promptly refund to the Customer any charges paid by the Customer for any Services and Deliverables paid for but not yet performed or committed.</p>
b. Suspension of an enChoice Service	<ul style="list-style-type: none"> ▪ enChoice may suspend or limit, to the extent necessary, the Customer 's use of the Knowledge Capture Services if enChoice reasonably determines there is a: <ul style="list-style-type: none"> a) material breach of the Customer's obligations; b) security breach; c) violation of law; or d) breach of the Acceptable Use Terms. ▪ enChoice will provide notice prior to a suspension as commercially reasonable. ▪ If the cause of a suspension can reasonably be remedied, enChoice will provide notice of the actions the Customer must take to reinstate the Knowledge Capture Services. If the Customer fails to take such actions within a reasonable time, enChoice may terminate the Knowledge Capture Services.
c. Force majeure	<ul style="list-style-type: none"> ▪ Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate this Agreement by giving 60 days written notice to the affected party.

9. Governing Laws and Geographic Scope

a. Applicable Laws	<ul style="list-style-type: none"> ▪ This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. ▪ Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation. ▪ The rights and obligations of each party are valid only in the country of the Customer 's business address.
b. Compliance with Laws	<ul style="list-style-type: none"> ▪ Each party is also responsible for complying with: <ul style="list-style-type: none"> a) laws and regulations applicable to its business and Content; and b) import, export and economic sanction laws, regulations and any applicable jurisdictions that prohibit or restrict the import, export, re-export, or transfer of products, technology, services or data, directly or indirectly, to or for certain countries, end uses or end users.
c. Enforcement and Other Rights	<ul style="list-style-type: none"> ▪ If any provision of the Agreement is invalid or unenforceable, the remaining provisions remain in full force and effect. ▪ Nothing in the Agreement affects statutory rights of consumers that cannot be waived or limited by contract.

10. General

a. enChoice's Role	<ul style="list-style-type: none"> enChoice is an independent contractor, not Client's agent, joint venture, partner, or fiduciary. enChoice does not undertake to perform any of Client's regulatory obligations or assume any responsibility for Client's business or operations, and Client is responsible for its use of enChoice Products and Non-enChoice Products. enChoice is acting as an information technology provider only. enChoice's direction, suggested usage, or guidance or use of an enChoice Product does not constitute medical, clinical, legal, accounting, or other licensed professional advice. Client should obtain their own expert advice. Each party is responsible for determining the assignment of its and its affiliates personnel, and their respective contractors, and for their direction, control, and compensation.
b. KCSA Changes	<ul style="list-style-type: none"> Since this Knowledge Capture Terms and Conditions may apply to many future orders, enChoice may change this Terms and Conditions by providing the Customer at least 90 days' notice. The Knowledge Capture Terms and Conditions changes are not retroactive. They will only apply as of the effective date to: <ul style="list-style-type: none"> a) new orders; b) continuous enChoice Products and Non-enChoice Products that do not expire; and c) renewals. For transactions with a defined renewable contract period stated in a SDD, the Customer may request that enChoice defer the change effective date until the end of the current contract period. The Customer accepts changes by placing new orders, continuing use after the change effective date, or allowing transactions to renew after receipt of the change notice. Except as provided in this section and the Changes and Withdrawal of Services section above, all other changes to the Agreement must be in writing accepted by both parties.
c. Business Conduct	<ul style="list-style-type: none"> enChoice maintains a robust set of business conduct and related guidelines covering conflicts of interest, market abuse, anti-bribery and corruption, and fraud. enChoice and its personnel comply with such policies and require contractors to have similar policies.
d. Assignment	<ul style="list-style-type: none"> Neither party may assign the Agreement, in whole or in part, without the prior written consent of the other. enChoice may assign rights to receive payments. enChoice will remain responsible to perform its obligations. Assignments by enChoice in conjunction with the sale of the portion of enChoice's business that includes an enChoice Product or Non-enChoice Products is not restricted. enChoice may share this Agreement and related documents in conjunction with any assignment. <p>e.</p>
f. Enterprise Companies	<ul style="list-style-type: none"> This Knowledge Capture Terms and Conditions applies to enChoice and the Customer (accepting theses Terms & Conditions) and their respective Group companies that provide or acquire enChoice Products or Non-enChoice Products under this Agreement.

g. Notices and Administration	<ul style="list-style-type: none">▪ All notices under the Agreement must be in writing and sent to the business address specified for the Agreement, unless a party designates in writing a different address.▪ The parties consent to the use of electronic means for communications as a signed writing.▪ Any reproduction of the Agreement made by reliable means is considered an original.▪ The Agreement supersedes any course of dealing, discussions, or representations between the parties.▪ Where approval, acceptance, consent, access, cooperation, or similar action by either party is required, such action will not be unreasonably delayed or withheld.
h. Cause of Action	<ul style="list-style-type: none">▪ No right or cause of action for any third party is created by the Agreement or any transaction under it.▪ Neither party will bring a legal action arising out of or related to the Agreement more than two years after the cause of action arose.▪ Neither party is responsible for failure to fulfill its non-monetary obligations due to causes beyond its control.
i. Global Resources	<ul style="list-style-type: none">▪ enChoice may use personnel and resources in locations worldwide, including contractors, to support the delivery of enChoice Products and Non-enChoice Products.▪ enChoice is responsible for the obligations under the Agreement even if enChoice uses a contractor and will have appropriate agreements in place to enable enChoice to meet its obligations.