



Adaptable-scope contracts:

A new model for flexible collaborative work

DXC Leading Edge explores how traditional ironclad contracts excel at clarifying expectations and mitigating risk. However, for complex and adaptable projects, their focus on defined deliverables leaves Agile teams ill-equipped to handle unpredictable innovations.



Foreword

The first insight one might draw from this paper is that the authors are not lawyers. That's because only a minority of commercial lawyers are informed or enthusiastic about the notion of adaptable-scope or relational contracts. This fact highlights the importance of business and technical people experienced in planning, managing and delivering innovation projects communicating a modern contracting approach and its benefits. They'll explain to lawyers and procurement professionals why it is the preferred method of contracting. Lawyers occasionally require a push to venture beyond the traditional.

Of course, it's not just the lawyers or commercial negotiators who refuse to let go of the past. For three decades, as the principles of Agile software development have evolved and expanded into Agile project delivery methodologies, research and experience have established that Agile or relational contracts are a must for ensuring a successful commercial relationship designed to deliver innovation quickly. Although this new way of contracting is not predominant today like it should be, awareness and use are steadily increasing, as "Agile" in many forms is seen broadly now as best practice. Large commercial and government customers are regularly mandating its use by their own organizations and contractors.

With Agile also increasingly the norm for an evolution of emerging tech, changing the lens on contracting is instructive.

Why the reluctance to adopt Agile contracting? As with many things involving human nature, change comes slowly, particularly in the commercial world. Hundreds of years of risk and liability transfer have encouraged rigid and highly structured contracting. No doubt, traditional contracts still have an important place in the modern economy. As the authors point out, however, these contracts will absolutely stifle and kill modern projects intended to encourage collaborative creativity and discovery of innovative solutions. Even if this is recognized, fear of the unknown can discourage organizations from properly evaluating the risk of new Agile-based projects. This can block effective contracting of a flexible, relationship-based project.

That's beginning to change, thanks to papers like this one. The authors concisely walk the reader through what adaptable-scope contracts are, why they are essential to the success of innovation projects, how these contracts can be structured, and specific steps for getting started. Readers can glean valuable lessons and inspiration to begin contracting for success through Agile and relational contracting.



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Legal and procurement teams have mastered the art of the ironclad contract. These documents — designed to clarify expectations, define scope and deliverables, and establish legally binding clauses — protect both parties' interests. Their intention is to mitigate risk by defining the entire contracting relationship upfront. For traditional engagements with defined scopes, these contracts are enough to give executives the sense of security they're seeking.

But for more complex work with adaptable scopes, traditional contracting falls short. Defining a contract by its deliverables sets contracted Agile teams up for failure. It's impossible to predict innovative solutions, so instead, these contracts are developed on guesses and wishes of an uncertain future.

In Agile work environments, change is the only constant, and work develops in dialogue and sprints. Here, teams need room to innovate without superfluous constraints. Trying to articulate deliverables with specificity before these sessions begin impedes the flexibility teams need to facilitate meaningful collaboration.

To deliver Agile, establishing common goals and nurturing relationships between management and delivery teams is the order of the day.

These relationships demand a new kind of contract — an adaptable-scope contract — to set the stage for how teams work together. Adaptable-scope contracts are designed to help teams jumpstart their working relationship and build trust with contractual rules of engagement, particularly when the desired end state isn't clear.

In this paper, we'll explore why traditional contracts aren't designed to support Agile services, and we'll contrast that with how people are adopting new contracts to facilitate these relationships. Then we will explain how you can start improving your contracting processes for complex engagements today.



Does certainty exist in modern contracts?

Modern contract development is an exercise in eliminating ambiguity, but companies waste a lot of time and resources trying to conjure 100% certainty before signing an agreement.

On average, it takes companies over 30 hours of work to develop and sign a single contract.¹ Contracting Agile services (CAsE) can take even longer as organizations try to painstakingly define the scope, deliverables and measurable outcomes to guarantee business value. Trying to introduce all this detail for CAsE — the process of contracting teams trained in Agile practices to facilitate Agile deliveries — results in producing not an enforceable contract, but an elegant wish list offering a false sense of security.

In traditional transaction contracts, the statement of work includes clearly defined deliverables and outputs. These contracts fall short in Agile environments because they don't allow teams to iterate effectively. Comparatively, consumption contracts facilitate a capacity-as-a-service (CaaS) model, allowing organizations to leverage Agile teams to work toward desired outcomes (**Figure 1**).

Part of the problem with CAsE is that organizations aren't clear how to define contributions from Agile teams in *outputs* (the deliverables teams generate to realize a goal) and *outcomes* (the

efficiency and business improvements that result from launching those outputs). While Agile teams can provide business value through their outputs, they need room to discover and deliver those outputs organically. Specifying outputs before beginning the work stifles team collaboration and limits access to the benefits Agile is known for, namely speed, innovation and flexibility.

Assigning Agile teams contractual responsibility for outcomes poses a problem, too. Efficiency and business outcomes are dependent on the work of multiple teams, so Agile teams may not have direct control over these KPIs.

Ultimately, this erroneous focus on outputs and outcomes delays innovation and causes teams to underperform or miss opportunities to solve big problems.

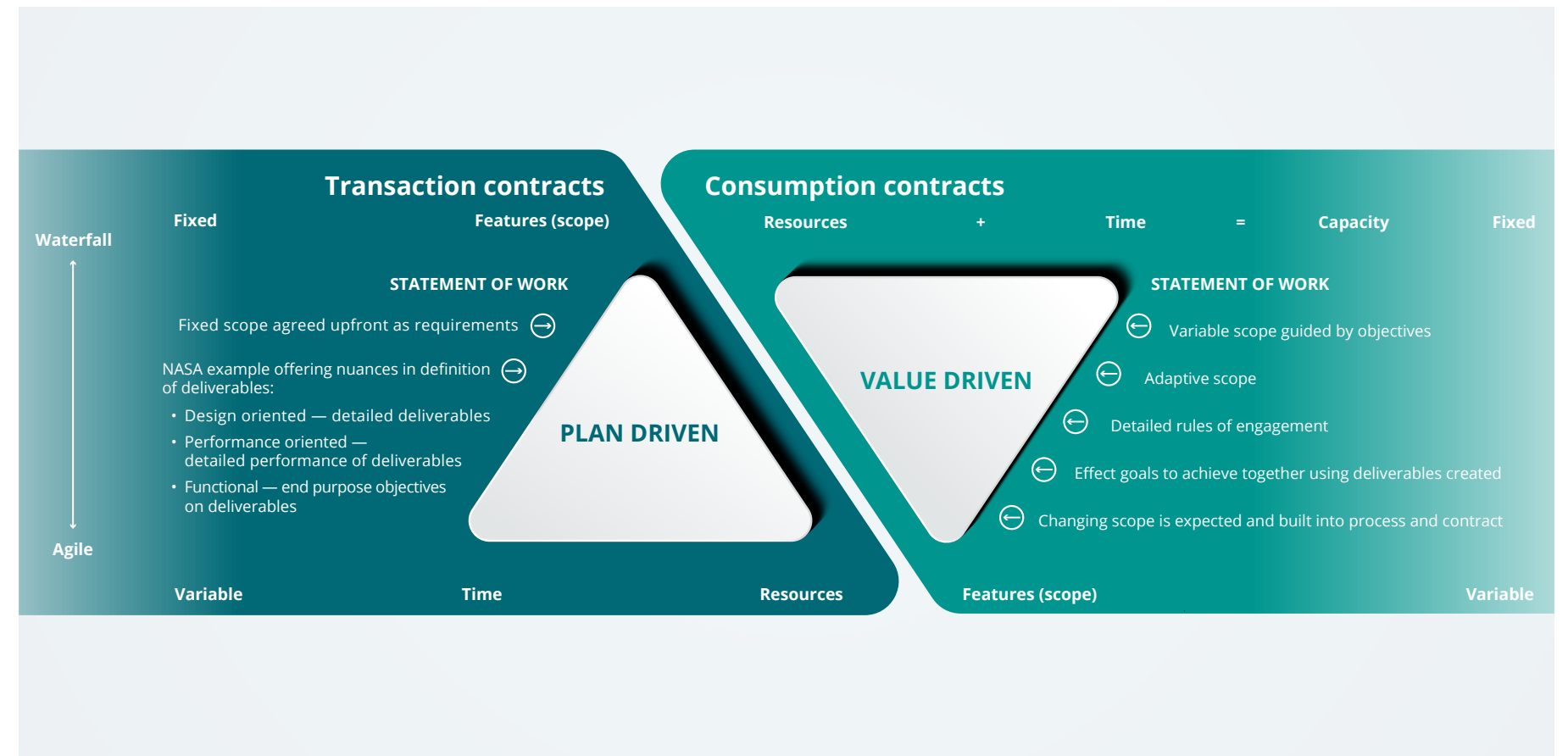
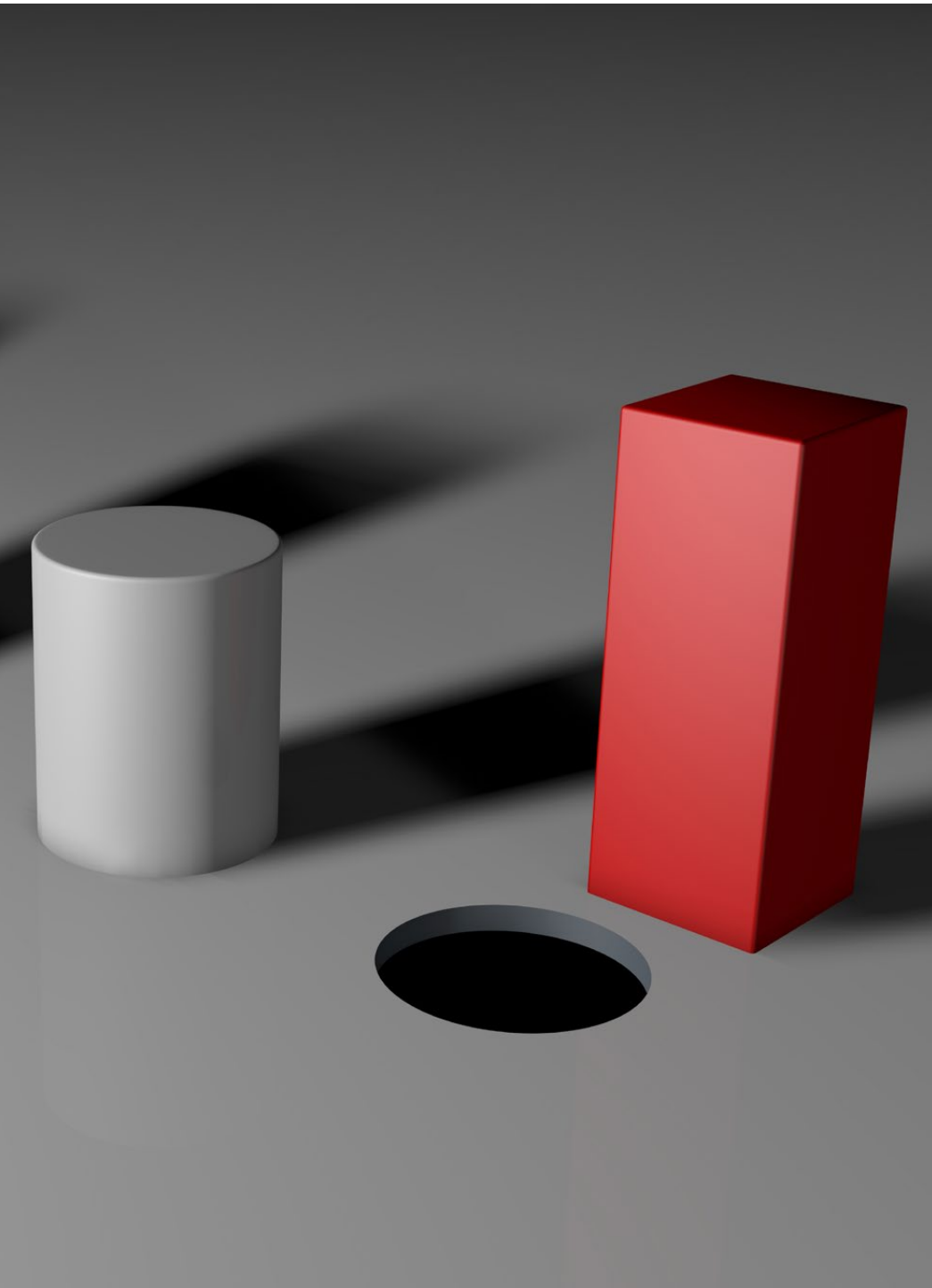


Figure 1. Transaction contracts vs. consumption contracts. CaaS provides an alternative for managing scope in the SOW.



Today's contracts leave teams trapped in distrust

If the traditional contract represents a square peg, Agile contracting is the dreaded round hole.

Experimental work is about solving new problems; novel solutions are seldom found along familiar paths. Traditional contracts demand that teams follow those familiar paths to satisfy risk-averse requirements. That means in lieu of collaboration, a team's rules of engagement are only to complete the predefined deliverables within the designated timeline.

Contrast this with the flexibility that is a cornerstone of the Agile process. It's nearly impossible to empower a contracted team to follow Agile practices without necessitating change orders and contract updates. It's unrealistic to constrain the Agile process and expect it to generate innovative results, yet traditional contracts do just that.

This puts businesses in a difficult position: Should they leave themselves legally exposed with a vague contract, or tie their teams' hands with a stringent one that may underperform?

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There is an alternative, but legal and procurement teams must put to rest their preoccupation with certainty. Rather than defining contracts by outputs or outcomes, organizations need to shift their focus to a new target: establishing trust in the processes that facilitate a team's work. Only then can trust develop between the organization and a contracted partner.

A relational, trust-based contracting approach — one that establishes how teams work together based on mutual goals — can be as effective as traditional contracts in reinforcing work behavior and delivering desired results. Designing contracts based on trust can even encourage teams to be more productive. The Trust Edge Leadership Institute found that 94% of Americans believe team trust plays a role in their work performance,ⁱ and Cerby found that 81% of employees feel more energized, happier and more productive when they believe their employer trusts them.ⁱⁱⁱ To that end, 50% claim it's an employer's job to establish trust within the workplace.^{iv}



In these contracts, predicting the future and defining success by output falls to the wayside. In its place, organizations establish defined rules of engagement — like the rules of tennis or basketball — that allow teams to hit the ground running on experimental work.

Legal resources can find it discomfiting to explore all the scenarios that might create risk in contracts for adaptable-scope work. Meanwhile, organizations with pressing problems need strong teams ready to dive in and solve them by any means necessary. Plus, departments must secure the talent they want and stay ahead of their competition.

To address these divergent organizational pressures, adaptable-scope contracts must be built on trusted processes to predefine how teams will work together and with a stage gate to mitigate risk. A stage gate allows either party to terminate the contract if the relationship isn't working. This provisional exit plan reveals the dichotomy of trust-based relationships: The easier it is to exit the relationship, the more work both parties must invest in the relationship to make it worthwhile.

While building these trusted processes into a contract doesn't solve all the issues, it's a way to articulate "how," even when "what" may be elusive.



Recognizing the success of relational contracts

Organizations don't have to look far for examples of the impact relational contracts can have for nontraditional work. Three Nobel Prizes have already shown the process can deliver results. Most recently, Oliver Hart and Bengt Holmstrom were recognized with a Nobel Prize in economics for their work on how organizations can manage the gaps in "incomplete contracts." Their work explores [how a contract shapes a relationship](#), especially in work where the details aren't clear upfront, to create value in partnership.⁹

According to their research, the contracting costs between teams are affected by the interaction between them. A successful contract must examine how dependent each party is on the interaction and the clarity around how they must interact to work together effectively — not the outputs of their work together. These elements form the foundation for a clear, enforceable and contractually supported partnership.

It's also vital to understand how power imbalances play in relational contracts. The incompleteness of the contract can be reflected in one party's lack of control. Establishing a trusting partnership means leaving the traditional approach of command-and-control management behind. If the control is balanced across both parties in the contract, there's room for trust to form. Contracts based on this shared trust have the flexibility necessary to facilitate effective work.

Effect goals are measurable outcomes that define the objectives teams aim to achieve together. Unlike end goals, which are fixed objectives, effect goals are malleable and continuously adjusted based on discoveries made during the Agile process to deliver the most value. One way to track the success of effect goals is by measuring the quality of capacity, or how effectively a customer can leverage a contracted team's capacity.



Trading deliverables for capacity

At the heart of every contract is a transaction. When organizations contract services, they focus on defining all the details before the transaction occurs. Occasionally they find themselves trying to do too much with the *contract* before the *relationship* has begun. However, with Agile approaches, the ultimate goal of these contracts isn't to define what output will be delivered; it's to *build and prove trust between parties* throughout the transaction.

Facilitating that trust starts with defining contracts in a new way. All the traditional constraints of a professional engagement — time, resources and scope — still exist. But now, instead of assigning resources and a timeline based on a predefined scope, adaptable-scope contracts turn time and resources into a new category: capacity. Companies can then leverage Agile funding techniques to purchase team capacity at a fixed monthly cost and allow the scope to evolve around the available capacity. In this transaction, organizations no longer purchase the output of a team's work; they purchase the team's ongoing support to produce that output instead.

At its core, adaptable-scope contracting recognizes that the right team, equipped with sufficient time and resources, is capable of solving complex problems with innovative solutions. The need to negotiate scope disappears, replaced with established processes

and expectations for engagement that define how a contracted team works with the customer organization. These contracts offer a framework to facilitate meaningful, transparent and controlled collaboration toward the "effect goals" defined in the contract.

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Now, organizations have access to the skills of expert teams through CaaS, without having to predefine what those teams must work on. By purchasing the team's capacity, organizations maintain flexibility to shift the team's focus according to internal needs, evolving priorities and market changes. This gives companies ready access to experienced consultants and practitioners with unique skillsets to round out their organizational capabilities and address their backlogs. This can provide an effective means of filling critical talent gaps in tight markets or for companies with hiring constraints.

Select the appropriate approach to manage each beast optimally

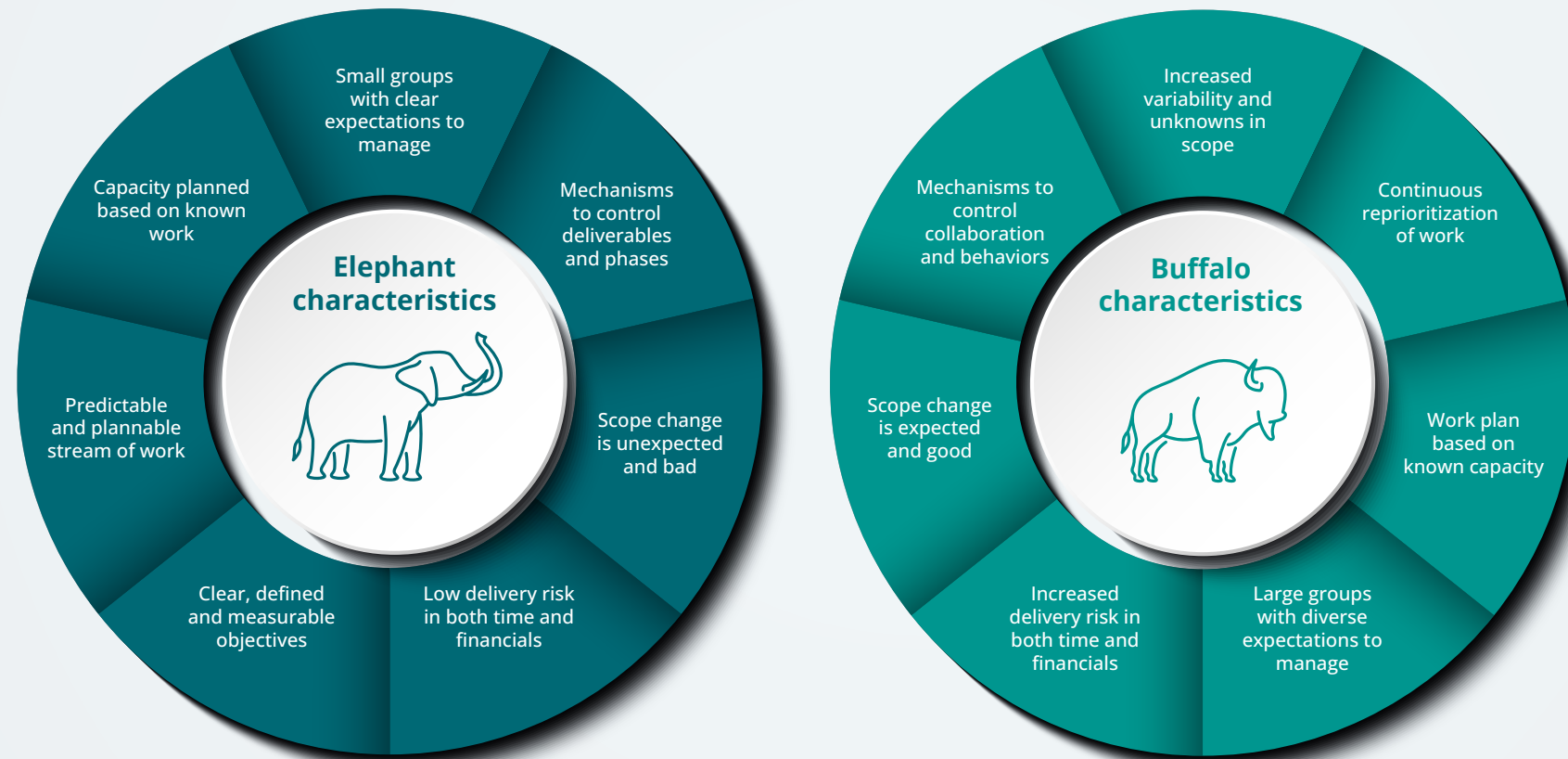


Figure 2. When to use CaaS. Can you tame the beast? Though large, an elephant can be tractable and controlled like traditionally scoped project work. In contrast, a buffalo is nearly impossible to control, similar to a standard Agile project. While an elephant-type project fits within traditional working styles, the buffalo-type project calls for CaaS.



How specialized capacity and clear rules of engagement come together

A compelling example of how teams can leverage specialized capacity within established rules of engagement is a country's armed forces.

In the Army, a service person is trained in how members behave. From their first days of boot camp, every service person learns the rules of engagement: how to interact within the hierarchy, how to communicate effectively and how to collaborate to solve problems. These standards define how that person approaches every task assigned to them while in service.

The Army is already trained to achieve certain effect goals, like defending the country against attacks. For certain missions, they may need help from specialists, such as translators, engineers or scientists. While these service people have different skills they contribute to the goal, they share the same context and rules of engagement. That ensures that these experts can be leveraged at any time without interrupting how the team works together.

For these engagements, the Army pays for the service person's expertise in the form of time and resources spent, not the delivery of a product. The service person's success is defined by how successfully they worked with the rest of the team to support the mutual effect goal.

Empowering discovery with collaboration

Adaptable-scope contracting focuses on setting aside the elusive “what” and “when” details of an engagement, focusing instead on “how” the team will deliver value that aligns with their effect goal. Contracts need to answer only two fundamental questions: “Why are we here?” and “What skills do we need to reach where we’re trying to go?”

For instance, consider a group of people working together to reach a new destination, but they have to cross a river to get there. Everyone in the group understands the goal: to reach the new destination. Everyone has a general idea of the skills that may be useful to help them get there. However, they may not know how to cross the river and meet their destination when they agree to work together.

A traditional contract might define one goal as crossing the river, assuming that’s the most logical way to reach the destination. But what happens if the team discovers a better way to get there without crossing the river?

Adaptable-scope contracts encourage and support this kind of flexible, collaborative problem-solving — like the work teams do in Agile environments — so teams optimize a way to reach their goals. Over time, teams build on what works within the partnership and abandon what doesn’t, pulling in resources to strengthen the team’s collaborative efforts and balance the cognitive load. The team’s effectiveness grows through dialogue as they assess problems and the resources necessary to solve those problems.

With a clearer view of the resources required to succeed, companies can leverage contracted expert teams to solve novel problems faster. The relational-based contract establishes a framework that cultivates trust with clear expectations. In this innovative environment,

companies can leverage expertise more fluidly and set the stage for contracted teams to deliver measurable business value.

Discovery is at the core of all experimental work, and contracted teams must be able to apply their capacity wherever it’s most valuable in the discovery, development and delivery process. Rather than trying to define a clear path to desired objectives, adaptable-scope contracts allow teams to focus on the journey toward the defined effect goals. Centering the journey presents an opportunity for a faster return on value, where teams continuously and incrementally deliver value and results.

Measuring the impact of behavior

Determining success for experimental engagements depends on assessing value in new ways. Even without deliverables, outsourced teams still need KPIs that determine the impact and results of their work.

Meaningful movement toward effect goals evolves in dialogue, which means success can look different over time. Since teams with adaptable-scope contracts are retained based on their capacity and not based on their progress on specific outputs, project-based KPIs don’t provide a reliable baseline. Instead, adaptable contracts must consider alternative KPIs, like quality of capacity and quality of partnership (**Figure 3**).

Contracts that measure behavior based on these values give contracted teams the freedom and authority to act, empowering them to make a stronger impact and deliver more innovative solutions. They also allow an organization and contracted team to continuously learn what works and what doesn’t, gaining valuable perspective even when desired results aren’t achieved.



QUALITY OF CAPACITY

Measures the value the organization receives in outputs and outcomes toward effect goals against the capacity utilization and cost

Evaluated by whether team has the right skills mix and hours available to meet organizational needs

Can be measured by how frequently the customer and team meet to discuss and shape work

QUALITY OF PARTNERSHIP

Measures how effectively the contracted team works with the customer

Can be assessed by how satisfied each party is with the partnership based on surveys like customer satisfaction scores or net promoter scores

Ongoing surveys evaluate current success and opportunities for improvement that impact satisfaction

Figure 3. Quality of capacity and quality of partnership

Designing contracts that satisfy (just about) everyone

There's no denying that contracts must be legally binding to be effective. However, risk isn't the only reason to have a contract in place. What if, instead of focusing solely on risk mitigation, teams could design contracts where everyone walks away satisfied: the team, the individual external contractors, legal and procurement? It is possible.

The trick to designing these contracts is establishing the true intention of the engagement upfront. Defining the effect goals for a contracted team, the responsibilities of each party, KPIs to measure the success of the collaboration, and fixed processes for how everyone will work together is fundamental in contracts designed for adaptable-scope work. The contract should also be easy to exit for either party, so teams can end the agreement if they are unsatisfied with the engagement.

But for these contracts to be successful, it's important to understand the role a contract plays in the relationship. While trust is the basis for adaptable-scope contracts, there's no trust built into the contract itself. Instead, like a prenuptial agreement, the contract is designed to specify how the parties will engage with one another and what will happen when trust is lost.

A trusted and proven process, like Agile, serves as a foundation for how teams will engage with one another. Superimposing the responsibilities assigned to each party over the process and the intended effect goals helps solidify expectations before work begins. From there, teams can start leveraging the principles that have made Agile successful for over 30 years. As they work together, both teams can measure the quality of capacity and quality of partnership within their relationship to determine how best to adapt the process to fit their needs.

These qualities offer the framework teams need to work together effectively — without the constraints of a lengthy, dependency-driven project plan.

Adaptable-scope contracts require fixed processes

Contracts tend to evolve asynchronously, taking time and effort from the myriad parties involved to define a project plan, find the right people, establish deliverables and create a strict binding traditional contract. This causes both parties to lose time and momentum. Yet, companies often prefer these contracts because they mitigate risk by pushing it across the table; if the engagement isn't successful or deliverables aren't met, the contracted team is on the hook.

Under those circumstances, it's difficult to establish a trusting relationship or the environment teams need to innovate. Adopting adaptable-scope contracts for complex engagements helps companies balance risk by defining a fixed baseline process for collaboration. Placing trust in the constraints of the process allows teams to nurture the partnership as both the customer and the contracted team learn to work together more effectively within the process.

Adaptable-scope contracts work only if there is active involvement between the customer and contracted team. All parties must continuously monitor the process to determine what's working and what isn't. This creates a realistic "stop-and-go" opportunity that trades traditional risk for ongoing assessment.



Introducing adaptable-scope contracting for in-house teams

Organizations know they need access to skillsets outside their in-house teams to round out their capabilities and address their product backlogs. However, this shift starts with reexamining the role contractors play in the organization. Rather than outsourcing work to a vendor, customers must be clear on the collaboration involved between them and the contracted team. Only then can organizations best leverage the contracted team's capacity and discover innovative solutions in dialogue.

Start by working with the contracted team to define the rules of engagement. Are you working within an Agile process? What KPIs will measure your success, and how often will those KPIs be evaluated and updated to drive desired behaviors? How can you normalize incremental delivery, rather than focusing on due dates and fixed projects?

Establish a framework to deepen trust and facilitate honest, ongoing feedback through regularly scheduled surveys and check-in discussions. One way to ensure this happens is by actively engaging in frequent, scheduled discussions focused on the success of the partnership — a process inherently built into Agile frameworks. That way, teams can continuously address what's not working and improve the way they work over time.



Getting to work: Adopting adaptable-scope contracting

Adaptable-scope contracts reconsider the work to be done, so it makes sense that the contract development timeline and process will require some new practices. Legal, procurement and management professionals should focus on four main ideas when introducing adaptable-scope contracts: specify, select, set and protect.

1

Specify why teams need contracted support

Review upcoming work where a team needs support. In instances where work is clear, define clear end goals. Where the work appears ambiguous, trade end goals for effect goals that will guide the Agile process.

2

Select the right team to support those goals

While engagements with end goals can benefit from Agile services, these projects may not need an adaptable-scope contract. Meanwhile, for complex engagements with effect goals, a CaaS engagement can provide distinct value. Evaluate and choose CaaS teams based on real, available capacity and skills determined by demonstrated ability to deliver innovative results and measurable business value on effect goals.

3

Set the rules of engagement

Establish how teams will work together, including roles and responsibilities of each party, the overarching framework or processes that will define how the team works together, and the KPIs used to measure performance. One way to do this is by leveraging the values and principles in the Agile Manifesto to define the rules of engagement within your contract.

4

Protect the relationship

Include within the contract regular opportunities to measure and review feedback, with the intention of adapting the process based on that feedback. Teams should also add a contingency plan for exiting the relationship if expectations are not met. These types of conversations are often built into the Agile process, but organizations can also learn how to build great working teams in the DXC Leading Edge report, "[Platform culture: A field guide to mastering the art of information flow.](#)"^{vi}

Working together for a more innovative future

The race is on for innovation. Working with a partner or ecosystem that can provide accelerators, cross-industry experience and a flexible commercial approach can advance innovation with fewer barriers. DXC Technology's approach is shown in **Figure 4**.

The future depends on creating novel solutions faster than the competition, and organizations are ready to change their work styles to enhance their capacity and capabilities with CaaS. Adaptable-scope contracts facilitate that innovation by establishing how customers and contracted teams can best work together, but change starts with redefining contracting practices.

Now is the time to introduce legal and procurement processes that support how companies will work moving forward. Start experimenting with adaptable-scope contracts today and lead the transformation to a more agile, innovative workplace.

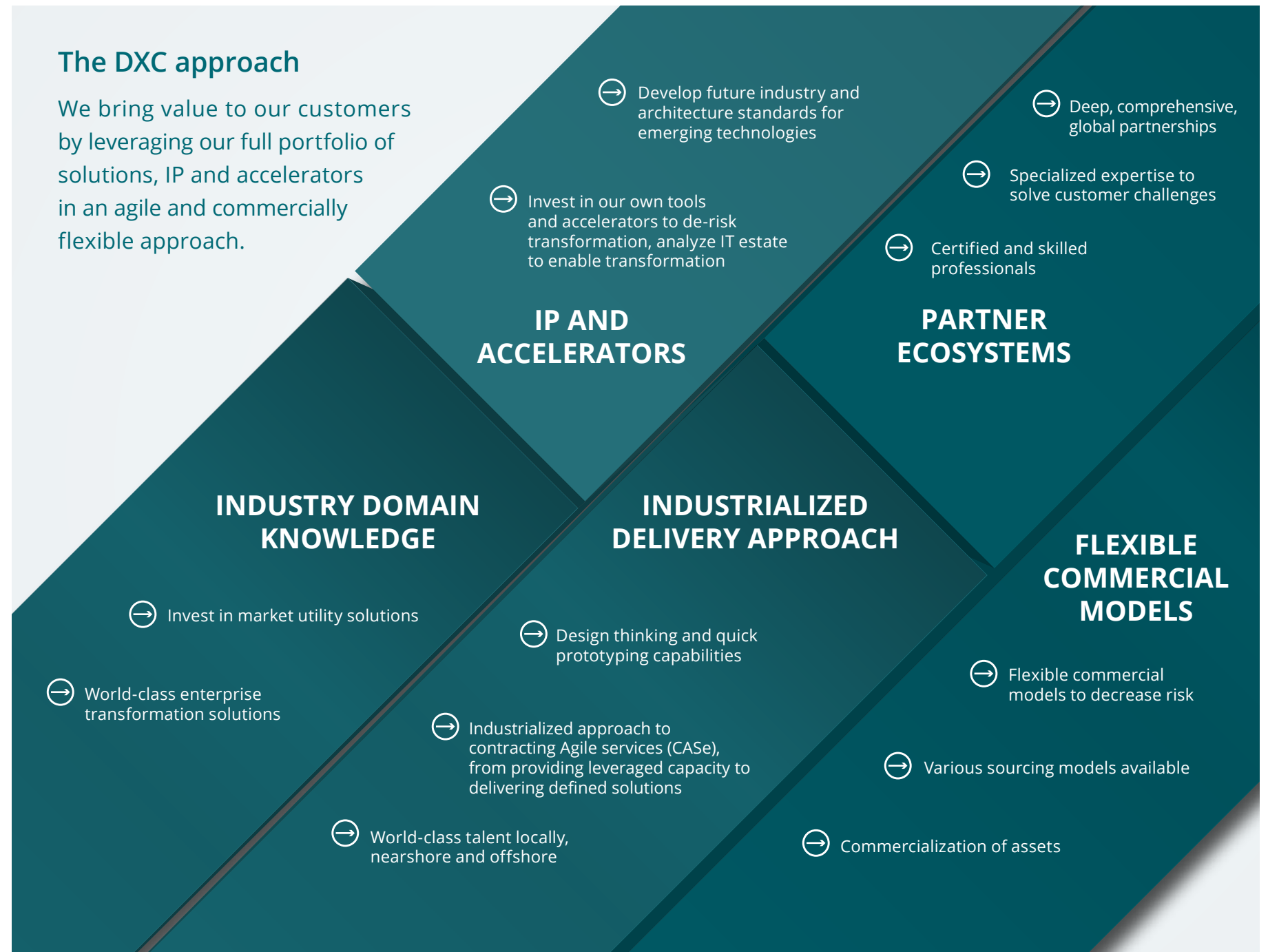


Figure 4. The DXC approach

Glossary

Agile funding. A way of funding capacity to be leveraged, allowing organizations to pay a fixed monthly cost for a predetermined capacity.

Capacity. A combination of time and resources that reflect a contracted team's bandwidth available for an organization to leverage.

Capacity as a service (CaaS). A way for organizations to access an Agile team's skillset and bandwidth by purchasing the team's capacity for a fixed monthly price through an adaptable-scope contract. This capacity can then be applied to any relevant work appropriate for the team's capabilities.

Contracting Agile services (CAsE). The practice of hiring an external team to support all types of Agile deliveries, including but not limited to CaaS delivery models.

Effect goals. Measurable outcomes within an adaptable-scope contract that define the objectives teams aim to achieve within an Agile work environment. These goals are malleable and adjusted continuously based on discoveries made during the Agile process to deliver the most possible value.

End goals. Fixed, predetermined objectives or KPIs defined in a traditional contract to define an engagement's success.

Quality of capacity. A KPI to measure trust and the quality of a relationship within an adaptable-scope contract. Quality of capacity measures the value an organization receives in outputs and outcomes toward effect goals compared to capacity utilization and cost.

Quality of partnership. A KPI to measure trust and the quality of a relationship within an adaptable-scope contract. Quality of partnership measures how effectively the contracted team works with the customer and how satisfied both parties are within the relationship.

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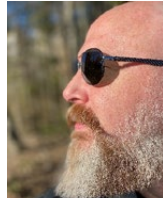
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About the authors



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Mattias Skarin is a former software developer turned transformative catalyst. Twelve years ago, he embarked on a journey driven by a simple question: “What does it take to succeed with software?” This quest led him to coach and train companies across the value chain in revolutionizing their software approaches. Mattias’s expertise in Agile transformations spans diverse organizations,

from scale-ups to global enterprises. Recognizing the power of effective partnerships and value-driven innovation, he co-founded [agilakontrakt.se](#), sharing his knowledge of Agile contracting and procurement. As founder of [activeagileleadership.com](#), Mattias imparts practical, field-tested leadership skills for successful digital transformation. He is the author of *Real-World Kanban* and co-author of *Kanban and Scrum: Making the Most of Both*.

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