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CONTRACTING FOR AGENTIC AI TOOLS, INTEGRATION, AND MANAGED SERVICES

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AGENDA

1. Tool Subscriptions and Licenses
2. Agentic Systems Integration
3. Agentic Managed Service Outsourcing
4. Takeaways
5. Q&A

01

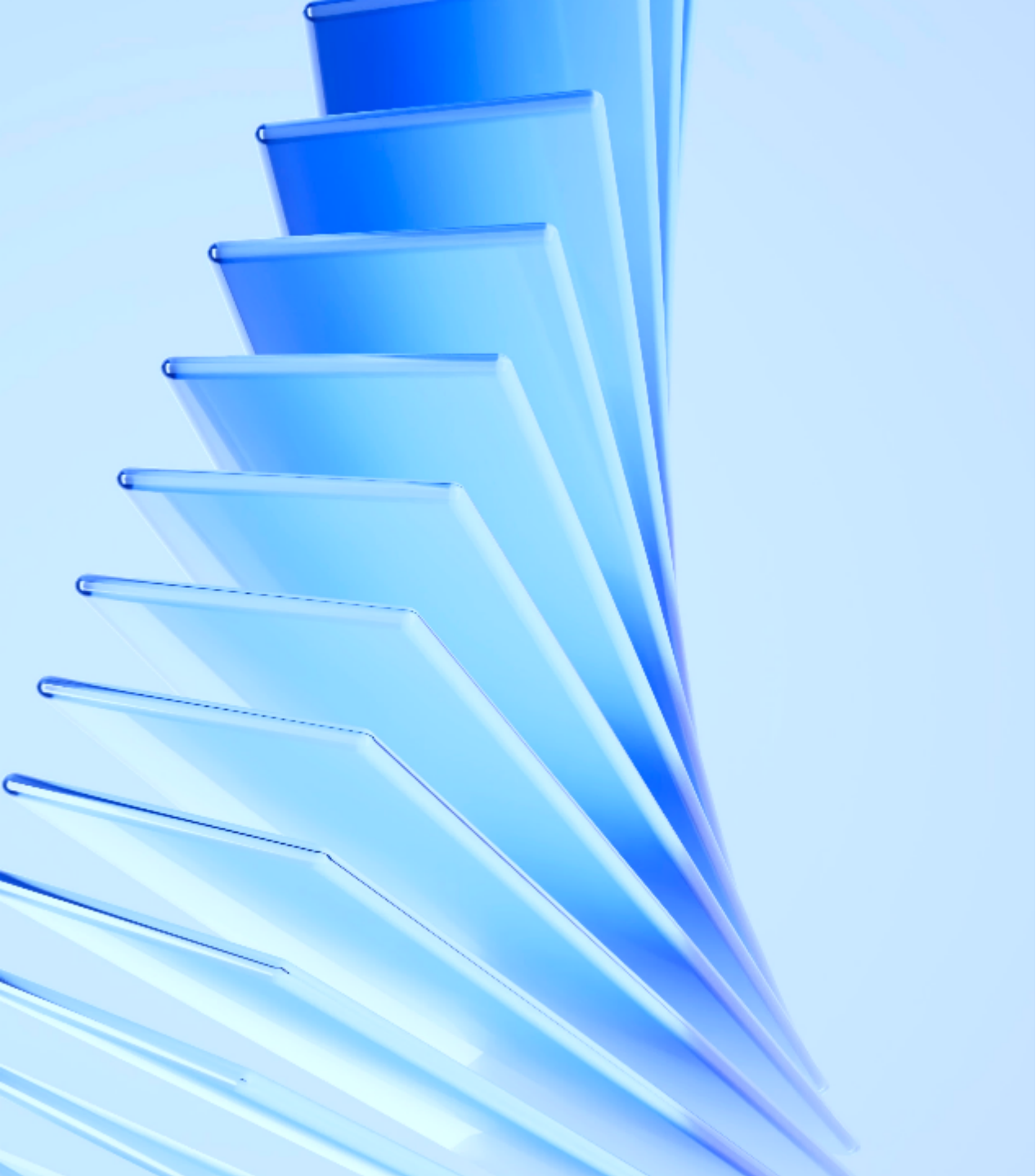
TOOL SUBSCRIPTIONS AND LICENSES

OVERVIEW

- Providers are pitching agentic AI solutions to automate front-office and back-office functions.
- Leading AI model providers and enterprise software vendors offer agentic capabilities.
- There are over 70,000 AI start-ups, many providing agentic AI Software as a Service (SaaS) tools using third-party models.
- There is a spectrum of tools (general purpose vs. function-specific).
- No set market standards for agentic AI contract terms.
- **Providers propose**: SaaS terms with broad GenAI-style disclaimers, with no added protections addressing the increased risks of agentic.
- **Companies propose**: commitments to agentic performance.
- How should we close that gap?

AI DISCLAIMERS

- Agentic AI is often based on third-party AI models.
- Providers often claim that they cannot offer performance commitments because of limited commitments and extensive AI disclaimers from model providers.
- Companies generally see providers as responsible for their subcontractors.
 - The provider selected its subcontractors.
 - The company should not need to pursue an unfamiliar party without privity of contract.

An abstract graphic on the left side of the slide, consisting of several overlapping, semi-transparent blue rectangular planes that create a sense of depth and movement, resembling a staircase or a series of steps receding into the distance.

HOW THE “FLOW DOWN” ISSUE WAS ADDRESSED EARLIER FOR SAAS

The problem for SaaS

- SaaS providers relied on hyperscalers that offered only limited commitments.
- SaaS provider terms portrayed hyperscalers as public utilities, proposing exclusions of cloud downtime and security from SLAs, including hyperscaler failures as *force majeure*, and avoiding meaningful remedies.

How the SaaS market matured

- Early adoption was often limited to low-risk workloads suited to the available levels of commitments.
- As SaaS providers improved architecture, security, and monitoring, contractual commitments matured and companies moved more workload.
- Contracts remained focused on the service sold to the company, even without a matching upstream remedy.



WHY AGENTIC REOPENS THE ISSUE

Like earlier SaaS providers, agentic AI providers:

- Depend on services (frontier models) available only on standard terms with no realistic ability to negotiate.
- Cannot say when functionality will be retuned, restricted, or retired.
- Did not build and cannot test or control those services.
- Are asked to accept exposure to the company with no matching upstream remedy.

The difference is the nature of the exposure.

- Cloud dependency was about availability and security.
- Model dependency is about the core functionality that the company is buying.

ADDRESSING AGENTIC RISKS

Steps:

- *Identifying* the risk and its underlying causes.
- *Engineering* (i.e., technical and operational steps) to reduce risk.
- *Contracting* to implement the engineered solution, establish a process if it fails, and allocate residual risk.
- *Scaling* agentic use and authority based on remaining residual risk.

Risk areas to address:

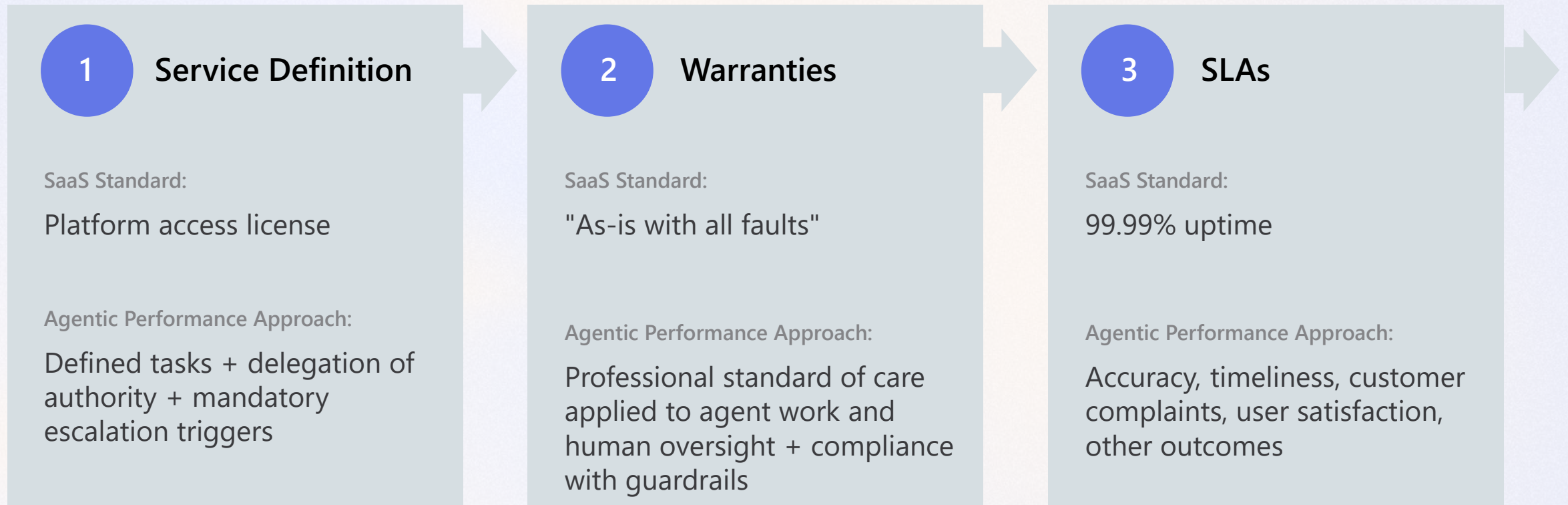
- Performance and continuity
- Data and IP protection
- Compliance and explainability
- Lock-in and portability

BRIDGING THE CONTRACTUAL GAP

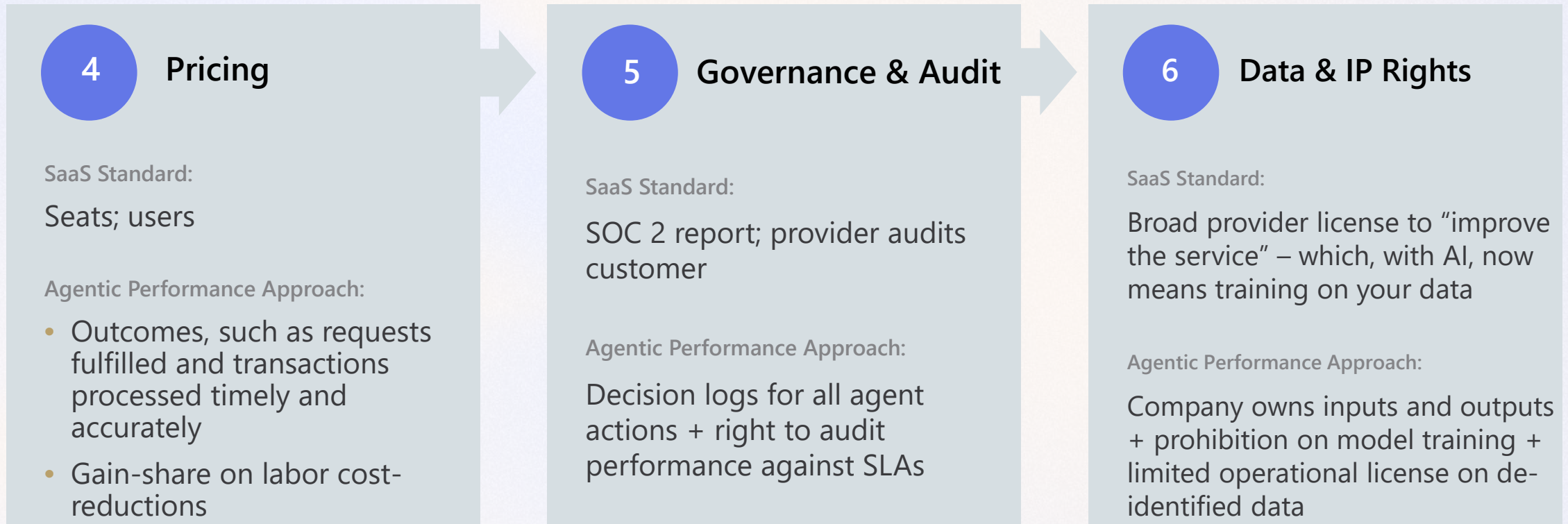
- The path forward for procuring agentic AI tools will likely be a new contracting model.
- Features:
 - Scalable, subscription-based framework from SaaS contracts.
 - Heightened commitments to agentic performance and governance.
- The precise terms would depend on the deal, but this is a better fit for:
 - Agentic AI solutions that replace/reduce company employees performing services.
 - Agentic AI's heightened risk profile.
- Six examples follow.



POSSIBLE AGENTIC PERFORMANCE APPROACHES (1 OF 2)



POSSIBLE AGENTIC PERFORMANCE APPROACHES (2 OF 2)





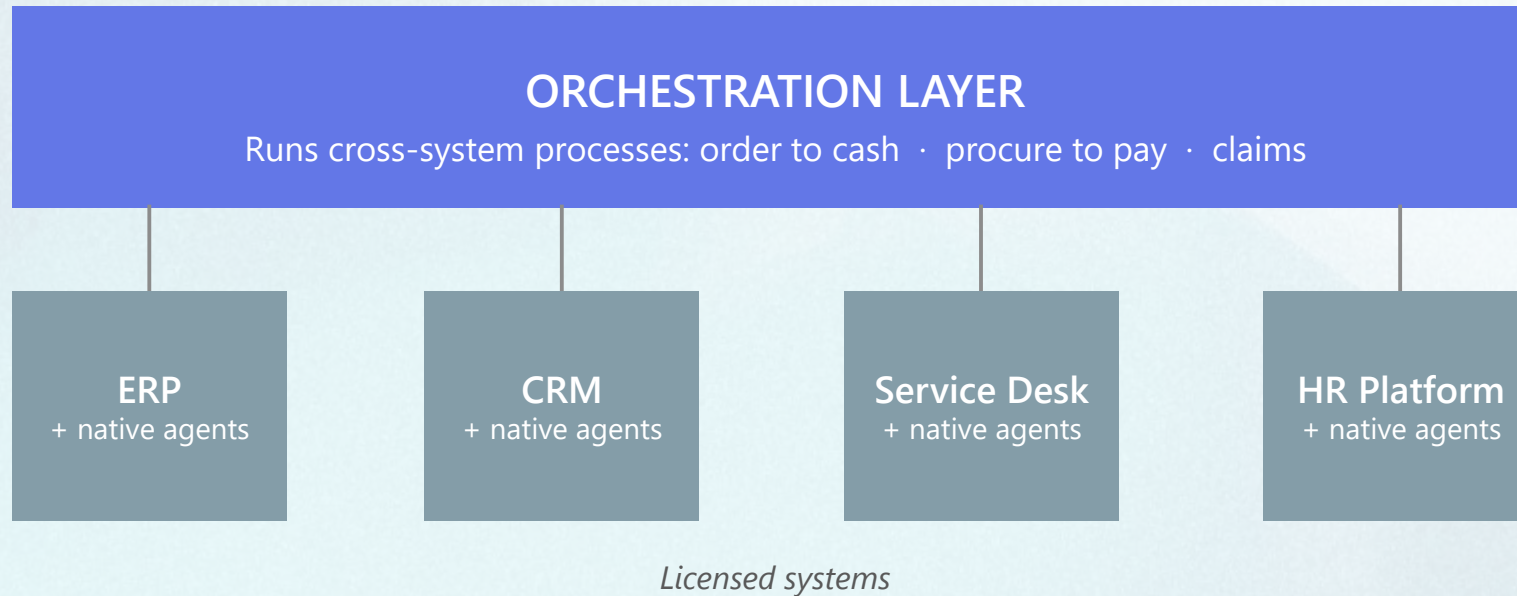
TAKEAWAYS

- Agentic AI creates genuinely new issues in contracting.
- To address the limited commitments by model providers, companies and providers can (1) identify issues, (2) engineer the best possible solutions, and then (3) contract for implementation of that engineering and to allocate residual risk.
- Companies and providers will need new contract terms for the unique issues presented by agentic AI.

02

AGENTIC SYSTEMS INTEGRATION

WHOSE AGENTS RUN THE BUSINESS PROCESS?



The products are licensable. The integration requires more.

THREE WAYS TO BUILD THE LAYER

In-house development

Build with licensed components, if you have the capabilities.

Hire an integrator

The integrator helps build the layer but the company keeps control.

Outsource the function

Provider builds and runs the function.

SCOPE OF WORK FOR INTEGRATORS FOR AGENTIC AI IMPLEMENTATIONS

Design

Evaluate operations, recommend where to deploy AI, select products, define target operating model

Build

Procure AI solutions, integrate into company environment, configure agents, build workflows

Support

Operate and monitor agents, adapt to evolving needs, train company staff, manage escalations

How these deals are different:

- The fundamentals of systems integration deals are well established for ERP and other enterprise systems implementation.
- Agentic systems will allow more customizations, and thus more complexity, than other enterprise systems.
- Contracts will be signed before key cost drivers are known—scope, pricing and feasibility will emerge during design and the available agentic products will change rapidly.
- The integrator builds an "agentic mesh"—an interconnected network of AI agents—that grows incrementally.

POSSIBLE DEAL STRUCTURES FOR AGENTIC AI IMPLEMENTATIONS

Assist (T&M)

Discovery & design phases where scope is uncertain

Advantages:

Flexibility; start quickly; easy to redirect

Watch-outs:

Company bears all cost, schedule and outcome risk; needs the skill to use budget and change controls

Deliver (Fixed Fee)

Build phases with well-defined requirements

Advantages:

Price certainty; integrator incentivized to deliver efficiently

Watch-outs:

Risk premium baked in; requires precise specifications; change orders may inflate cost

Shared Risk/Reward

Full-scope engagements with measurable business outcomes

Advantages:

Aligned incentives because both parties share upside and downside

Watch-outs:

Complex contracting; requires clear baseline, measurement period, data sources, and re-baselining triggers

Mix structures by phase: **Assist for design** → **Deliver or Shared for build and support**



PERFORMANCE COMMITMENTS FOR AGENTIC AI IMPLEMENTATIONS

- 
- 1 **Implementation:** deliverables, milestones, acceptance criteria, deployment dates
 - 2 **Operational:** monitoring, incident response, uptime, drift management, maintenance
 - 3 **Agent performance:** completion rate, human-handoff rate, rework rate, tool-use reliability
 - 4 **Business outcomes:** cycle time, cost, error rates, customer experience, workforce impact

The further down the list, the more the contract must define assumptions, dependencies and relief.

KEY TERMS: WHO DECIDES

1 Technology Selection

- **Integrator:** Prefers technology it knows, can support profitably, and align well with strategy
- **Company:** Focused on total cost, reliability, security, regulatory posture, lock-in, architecture fit
- *Choosing implies responsibility*
- **Possible approach:** Integrator discretion within pre-approved criteria; company approval outside them
- **Diligence:** Check existing platform agreements for limits on third-party orchestration across their APIs
- **Migration rights:** If vendor terms, pricing or performance change



2 Governance

- **Policy and risk:** Company decides; integrator advises; fast turnaround on urgent changes
- **Technical change:** Joint, including vendor updates to native agents — and who can suspend, restrict or roll back an agent
- **Audit and observability:** Company rights to logs, decision traces and drift data; integrator implements; rights survive termination
- **Day-to-day operations:** Company, or integrator within agreed parameters
- **Compliance:** Allocate by legal role; route new laws through governance; decide at signing who pays



KEY TERMS: WHO BEARS THE CONSEQUENCES

3

Liability

- **Diagnosis:** Company, integrator, enterprise vendors and model/platform providers may all be responsible — only company and integrator are parties
- **Starting point:** Align responsibility with control
- *But:* Control is shared, shifts after go-live, and agents act probabilistically. The liability clause is only as good as the scope, performance and governance clauses that feed it
- **Caps:** Integrator fees are small relative to potential harm
- **Indemnities:** Cover integrator work, company-directed uses, and the gap left by narrow vendor indemnities



4

Exit and Portability

- **Necessary artifacts:** The business process lives in prompts, configurations, orchestration logic, evaluation sets, monitoring rules and runbooks
- **At exit:** Those artifacts, knowledge transfer sufficient to operate, continued services, data and log export, transition licenses
- *Negotiate at signing, while the company has leverage*
- **Background IP:** Restrict reuse where it gives strategic advantage, embeds confidential information or creates vulnerability
- **Agent-produced work:** Say who may use, modify, retain and commercialize it



TAKEAWAYS

The components can be licensed. The integration takes work.

- 1 Structure by phase.** Assist while you're learning; deliver or shared once you know what you're building.
- 2 Write commitments and dependencies with equal precision.** Outcome-level commitments for the company; specific, conditioned relief for the integrator.
- 3 Contract for continuity.** Decide what's needed to run your cross-system processes, then contract deliberately: prompts, configurations, orchestration logic, evaluation sets, logs, runbooks.

Next: when the provider builds and runs the layer → agentic managed services

03

AGENTIC MANAGED SERVICE OUTSOURCING

WHY ARE AGENTIC MANAGED SERVICES DIFFERENT?

Compared to tools and integration deals

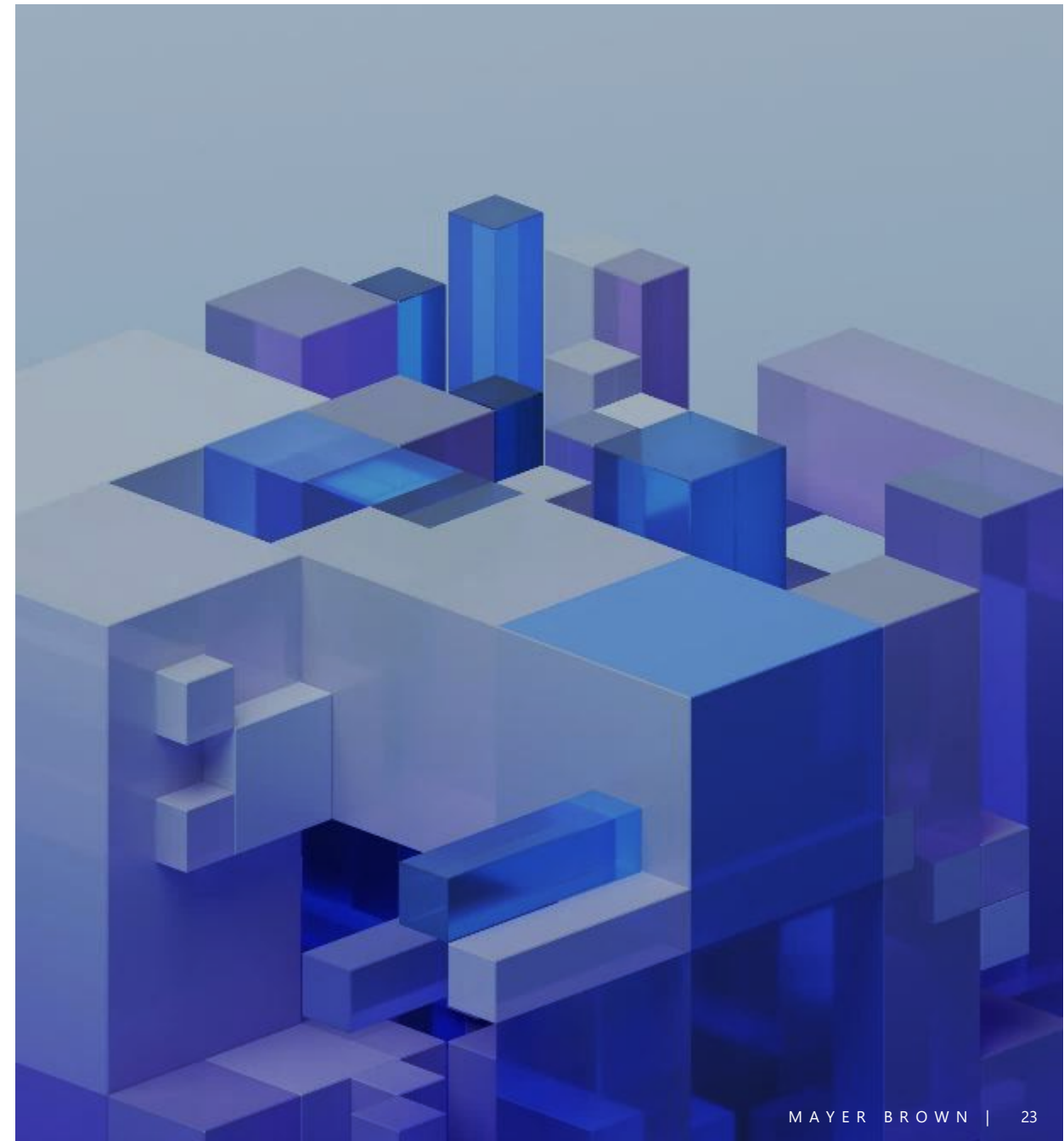
- The provider is responsible for performing a company business function over a long term
- The provider is using, not delivering, agents

Compared to people-based managed services

- Provider manages an agentic workforce
- No “steady state” following “go live”
- Provider depends on company for agent-friendly processes, data and systems
- There is no market-standard deal structure yet

POSSIBLE SCOPE OF SERVICES

- **Functional:** Provider takes responsibility for performing a traditionally-internal business function *or value stream*.
- **Transformational:** Provider conducts *ongoing integration* so that AI agents increasingly perform operational tasks and adapt to changes in the company's business and technology.
- **Operational:**
 - Provider onboards, supports, monitors, corrects, and sunsets AI agents
 - Provider provides AI agents as products
 - Exit and portability





POSSIBLE PERFORMANCE COMMITMENTS

1 **Functional:**

- Traditional manage services metrics such as speed, accuracy, availability, technical currency, policy adherence, customer experience
- Business outcomes such as sales, repeat business, days sales outstanding

2 **Transformational:**

- Deliverables provided by milestone dates
- Percentage of work performed by AI agents

3 **Agentic Workforce:**

- Incident response speed, drift management, incident containment rate; remediation speed and accuracy
- Agentic uptime, agentic speed and accuracy, human-handoff rate, human rework rate

POSSIBLE PRICING METRICS

- Platform access rights
- Consumption-based, including token prices
- Business transaction volumes
- Operational support time or volumes
- “Product” pricing
- FTE rates for human services, such as onboarding, supporting, monitoring, correcting and sunseting AI agents
- Rates based on agentic autonomy
- “Outcomes” linked to the provider’s performance



POSSIBLE TECHNOLOGY PROVISIONS

- Typically, in managed services, companies have the right to select technology environment and have approval rights over any technology introduced into its environment by provider.
- Providers seek rights to introduce new agentic technology within guardrails, including “products” running in the provider’s environment.
 - Allocation of liability and cost
 - Exit provisions
- Providers ask that companies agree to modify their processes, data and technology (or allow providers to do so) to work with provider-selected technology.



REVISE CONTRACT TERMS FOR AGENTIC DELIVERY

Examples

- Describe what provider will get done, not what its people will do.
- Provide for probabilistic action for agents—people are not the only probabilistic system and not all software is deterministic.
- Address IP requirements for human authors and inventors.
- Make relevant provisions easy to interpret for agents, such as:
 - Obligations to act “reasonably,” make “efforts” or use “good faith.”
 - Liability standards such as negligence or willful misconduct.
- Address agentic costs, such as tokens.
- Replace rights to talk to the person doing the work with other information and reporting rights suitable for agents.
- Specify what provider must flow down to model providers.



ADDRESS NEW AGENTIC RISKS WITH NEW CONTRACT PROVISIONS

New Sources of Risk and Failures:

- Model defects
- Company instructions
- Flawed training data
- Inadequate human oversight
- Integration failures
- Third-party systems
- Autonomous decision-making
- AI regulations
- New security vulnerabilities

New Contract Provisions:

- Warranties regarding AI outputs
- Limitations on reliance
- Human review obligations
- Carve-outs for reckless deployment
- Indemnities for autonomous actions
- Regulatory compliance obligations
- Data misuse and confidentiality risks



TAKEAWAYS

- Managed services performed using agentic AI will involve more ongoing change, uncertainty and complexity.
- Agentic AI managed services will include new scope, performance, and pricing and risk provisions specific to delivering services using agentic AI.
- First principles matter, again, in getting to the right deal structure and contract terms.

04

TAKEAWAYS



TAKEAWAYS

- Agentic AI is an emerging technology with fundamentally different capabilities and risks than other automation technologies.
- As a result, agentic AI changes the fundamentals of services contracting, both for legal and commercial provisions.
- The challenge now for companies and agentic AI providers is to tailor and adapt existing deal models, and develop new models, to fit agentic AI.

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05

Q&A

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