



SCOPE
EUROPE

Declaration of Adherence Agreement

SCOPE Europe Monitoring Body



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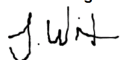
Changelog

Version	Time of Edit	applied changes
v2.2	December 2021	<ul style="list-style-type: none"> ■ clarification concerning Complaints Committee members ■ typographical error
v2.1	April 2021	<ul style="list-style-type: none"> ■ further alignment with accreditation criteria Belgium ■ alignment with updates to the Code
v.2.0	August 2020	<ul style="list-style-type: none"> ■ layout enhancements ■ consistent GDPR references ■ clarifications regarding incorporated documents and due fees ■ further alignment with accreditation criteria Belgium
v.1.0	March 2019	<ul style="list-style-type: none"> ■ original publication

Last reviewed and signed-off, 22 December 2021, by

Managing Director

Head of Monitoring and Auditing,
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1 Parties and Proof of eligibility

- (1) This agreement is being established between the CSP as indicated in the declaration of adherence (“**Monitored Company**”) and SCOPE Europe as **Monitoring Body** of the European Cloud Code of Conduct (“**Monitoring Body**”).
- (2) As prerequisite of declaring a service adherent to the **Code**, the **Monitored Company** shall be a current Member of the General Assembly of the EU Cloud Code of Conduct (the “**Code**”). Upon request the **Monitored Company** will present effective evidence to the **Monitoring Body**.
- (3) The **Monitored Company** is not due in fulfilling its obligations – namely its obligation to pay its membership fee – as a Member of the General Assembly; it acknowledges that the **Monitoring Body** may request confirmation of the Secretariat of the **Code**.

2 Incorporated Documents, Current and Future Versions thereof

- (1) This agreement incorporates the **Code**, the rules of procedure of the **Monitoring Body**, the respective price list in its current version and the Membership Agreement as being published under <https://eucoc.cloud> and / or <https://scope-europe.eu> and provided within the declaration of adherence process.
- (2) The **Monitored Company** acknowledges and agrees to the documents as being provided and that any future version of such documents shall automatically become an effective part of this agreement if the following criteria are met:
 - a. any future version of the **Code** or its Annexes shall automatically become an effective part of this Agreement, if it has been amended in accordance with the procedures laid down in the **Code**, especially Section 8 of the **Code**.
 - b. any future version of procedures of the **Monitoring Body** shall automatically become an effective part of this Agreement if those procedures have been amended to keep aligned with any amendments of the **Code**, to reflect its requirements under GDPR to keep its status as accredited **Monitoring Body**, no matter whether such requirements were directly requested by a supervisory authority or whether the **Monitoring Body** has been addressed indirectly with such requirements, for example by updated Guidelines, any actions taken against other monitoring bodies by supervisory authorities or even respective court decisions.
 - c. with each renewal of its declaration of adherence **Monitored Company** will accept any modified version of this agreement, provided that such

modified version of the agreement will be properly presented to the Steering Board of the **Code**.

- (3) The **Monitored Company** acknowledges and accepts this agreement including its incorporated documents as binding and enforceable.

3 Services – General Provisions

- (1) The **Monitoring Body** provides monitoring services to **Monitored Company**.
- (2) Monitoring Services are related to cloud services, that have been declared adherent by the Monitoring Company (“**Monitored Services**”).
- (3) Monitoring Services entail initial assessments to verify compliance of **Monitored Services** before those are enlisted in the public register of the **Code** for the first time as well as recurring and ad-hoc assessments continuously verifying compliance of **Monitored Services**.
- (4) Monitoring Services entail a Complaints Handling including the power of the **Monitoring Body** to impose sanctions and remedies against the **Monitored Company** where non-compliances may be unfolded.

4 Services – Specific Provisions

- (1) Assessments provided by the **Monitoring Body** shall follow the provisions and procedures as laid in the **Code** in Section 7.3 and as further defined by the rules of procedure of the **Monitoring Body**.

- (2) The **Monitored Company** shall provide sufficient evidence to the **Monitoring Body** to enable the **Monitoring Body** to reasonable verify compliance of **Monitored Services**. In case of doubts, the **Monitored Company** acknowledges and accepts that any lack of evidence results to the detriment of the **Monitored Company**; especially, if the **Monitored Company** is in the possession of requested information but rejects to unfold it towards the **Monitoring Body**.
- (3) The **Monitored Company** acknowledges and accepts that requested information shall be provided within due time, namely within the periods governed by the rules of procedure of the **Monitoring Body**. Belated responses may result into refusal of verification or reasonable doubts of compliance, which then will require further assessment by the **Monitoring Body**.
- (4) The **Monitored Company** acknowledges and accepts that – irrespectively of the chosen level of compliance – the **Monitoring Body** may request, e.g. in case it has reasonable doubts regarding provided evidence, that Monitored Company shall support its provided information by independent third-party audits or certifications.
- (5) The **Monitored Company** acknowledges and accepts that – irrespectively of the chosen level of compliance - the **Monitoring Body** shall be empowered to take the

final decision on the applicable level of Compliance.

- (6) The **Monitored Company** acknowledges and accepts that the **Monitoring Body** via its Complaints Committee may impose remedies and sanctions against the **Monitored Company** in case of any non-compliance, pursuant Section 7.9.2 and 7.9.3 of the **Code**.
- (7) The **Monitored Company** acknowledges and accepts that it will not take direct or indirect action against any Complaints Committee member, be it the individual or legal entity with which the Complaints Committee member is associated. Consequently, in any case of potential liability related matters, actions of **Monitored Company** shall be limited to those against **Monitoring Body**.
- (8) The **Monitored Company** acknowledges that Complaints Committee members are acting as individuals, thus, they are not acting by any means on behalf of the legal entity with which they are associated.
- (9) The **Monitoring Body** shall verify the compliance of **Monitored Company** within due time, pursuant Section 7.4 of the **Code**.
- (10) The **Monitoring Body** shall provide **Monitored Company** with a report of the assessment of compliance, as being published in the Public Register of the **Code**, see Section 7.4 of the **Code**.

5 Payments

- (1) The **Monitored Company** shall pay any fees as laid down in the price list within due time, but no later than ninety (90) days after being properly invoiced.
- (2) At its discretion, the **Monitoring Body** may request **Monitored Company** to pay applicable fees fully or partially in advance; especially in cases where **Monitored Company** declares multiple services adherent.

6 Communication Channels

- (1) The **Monitored Company** acknowledges and accepts to communicate with the **Monitoring Body** via those communication channels provided and / or requested by the **Monitoring Body**, unless the **Monitored Company** can reasonably argue that any use of such communication channels results into a disproportionate burden; in those cases the **Monitored Company** shall suggest appropriate alternatives meeting the requirements of the **Monitoring Body** regarding confidentiality, security and auditability of its actions.
- (2) Communication between the Parties shall happen via the point of contact as provided in the declaration of adherence.
- (3) The **Monitored Company** acknowledges and accepts that **Monitoring Body** may especially introduce dedicated online forms to process declarations of adherences, see Section 7.4 of the **Code**.

7 Independence of the Monitoring Body

- (1) **Monitored Company** and **Monitoring Body** may sign any additional Non-Disclosure Agreement (NDA) provided that such NDA does not conflict the duties and powers of the **Monitoring Body** as laid down in the **Code**, the **Monitoring Body's** rules of procedure or Art. 41 GDPR. Such NDA explicitly must not prevent the **Monitoring Body** to grant access to any information, that is subject to such NDA, to those performing monitoring services as per 3 (3) and (4) of this agreement on the **Monitoring Body's** behalf, as well as its Complaints Committee and any supervisory authority. Related to supervisory authorities granting access covers both scenarios in which a supervisory authority requests access or in which the **Monitoring Body** is obliged to actively provide respective information to such supervisory authority. At all times, the **Monitoring Body** shall respect the provisions as laid down in Sections 7.2.4 and 7.2.5 of the **Code**.
- (2) **Monitored Company** must not take any adverse influence on the decisions of the **Monitoring Body** that conflict with the **Monitoring Body's** independence. Where deemed appropriate by the **Monitoring Body** to defend its independent position it may unfold any inappropriate attempt by **Monitored Company** to the General Assembly of the **Code** and seek appropriate action by the General Assembly, including temporary or permanent expulsion of the **Monitored Company**.
- (3) Termination of this agreement shall be aligned and in accordance with Section 7.2.1.2 of the **Code; Monitored Services** shall be subject to monitoring services unless terminated by the **Monitored Company** with prior notification of eighteen (18) months or in cases where the **Monitoring Body** is grossly negligent in its responsibilities. Otherwise, annual fees as provided by the price list will be due – e.g. fees for any renewal of a declaration of adherence. For the avoidance of doubt: fees are due no matter whether **Monitored Company** explicitly triggers the renewal of its declaration of adherence, e.g. by using any of the templates provided by the **Monitoring Body** to ease the following processing of such renewals.
- (4) **Monitored Company** is aware of Section 7.7.1 of the **Code** that says “*Not submitting the compulsory annual, renewal of a declaration of adherence shall be considered as infringement of the Code if to the extent the CSP has not terminated its adherence consistent with the provisions of this Code and the procedures established by the Monitoring Body*”.
- (5) To the extent **Monitored Company** declared multiple Cloud Services adherent as Service Family, 7 (3) of this Agreement applies mutatis mutandis for each Cloud Service within such Service Family,

provided that such Cloud Service has not generally ceased to be provided or has not been integrated into any other Cloud Services of the Service Family concerned. This does not prevent **Monitored Company** to separate such Cloud Service(s) from a Service Family and treat them as individually adherent Cloud Service (family).

8 Power of the Monitoring Body

- (1) **Monitored Company** acknowledges and accepts the powers of the **Monitoring Body** as set-out by Art. 41 GDPR and as particularized by the **Code**, especially but not limited to Sections 7.7 to 7.9 of the **Code**.
- (2) If and to the extent **Monitored Company** is part of a group of companies and **Monitored Company** falls apart either from the company being member of the General Assembly of the **Code** or from the provider of the actual **Cloud Service** within the group of companies – e.g. for billing purposes or to effectively gather multiple **Cloud Services** to one declaration of adherence – the following shall apply:
 - a. If and to the extent the **Monitored Company** and company being member of the General Assembly falls apart, **Monitored Company** shall – the latest upon request by the **Monitoring Body** – provide binding confirmation, that **Monitored Company**

- acts with approval of the company being member of the General Assembly.
- b. If and to the extent **Monitored Company** and (effective) provider of **Cloud Service** falls apart, **Monitored Company** acknowledges and accepts that it will be liable for the compliance of any declared **Cloud Services** and lack of sufficient power and influence on the actual provision of each declared **Cloud Service** shall not be a valid exculpation. **Monitored Company** guarantees to being able to provide all information legitimately requested by the **Monitoring Body** during its provision of service under this agreement. **Monitored Company** guarantees also that any action, including the imposition of sanctions, or requests – regardless related to the monitoring or to any action taken against the **Monitored Company** due to non-compliance with the **Code**, e.g. being a request for remedy – will be ultimately binding to the **Monitored Company** and **Monitored Company** owes observance. Lack of compliance with requests or observance of any action taken against the **Monitored Company**, due to any determined non-compliance of a **Monitored Services**, may accumulate to a non-compliance with the **Code** by itself. **Monitored Company** must not exculpate itself by claiming it lacks

relevant influence or power to adequately respond to any request or action taken.

9 Final Provisions

- (1) Legally binding communication shall be in English and in textform, including by electronic means.
- (2) Obligations of each party that are provided either by the **Code** or by the rules of procedure of the **Monitoring Body** and which are not explicitly referenced in this agreement remain effective and binding to the parties. To the extent they are not explicitly referenced this is only to prevent unnecessary repetition and to keep this agreement short.
- (3) This agreement and any agreements or ancillary documentation executed pursuant thereto shall be governed by, and construed in accordance with the laws of Belgium.
- (4) Any dispute arising out or relating to the agreement and such ancillary agreements and documentation, including but not limited to any dispute concerning the validity, breach, interpretation, performance, or termination of the Agreement shall be submitted to the competent courts of Belgium. The Parties agree that they may agree on a case by case basis to consult the General Assembly of the **Code** or the competent supervisory authority of the **Monitoring Body** first.
- (5) If any term or other provision of this agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms, provisions and conditions of this agreement remain nevertheless in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto negotiate in good faith to modify this agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable Law in an acceptable manner to the end that the purpose of this agreement may be reached and this agreement may be fulfilled to the extent possible. 9 (4) last sentence shall apply mutatis mutandis.



About SCOPE Europe

SCOPE Europe sprl / bvba (SCOPE Europe) is a subsidiary of SRIW. Located in Brussels, it continues and complement the portfolio of SRIW in Europe and is an accredited monitoring body under the European General Data Protection Regulation since May 2021, pursuant to Article 41 GDPR. SCOPE Europe gathered expertise in levelling industry and data subject needs and interests to credible but also rigorous provisions and controls. SCOPE Europe also acts as monitoring body for the EU Data Protection Code of Conduct for Cloud Service Providers and is engaged in other GDPR code of conduct initiatives.